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EDITORIAL

CAMPAIGN FUND FOG

When it comes to inquiring into alleged Presidential wrongdoing, the Government proceeds on little cat feet, like Carl Sandburg's fog. Now, after the appearance here of Peter Peckarsky's story, "Carter's Campaign Finances" (May 19), the fog surrounding the supposed transfer of funds from the Carter family peanut warehouse into the President's 1976 campaign is beginning to lift—a little.

Only four days after Peckarsky's story appeared, Billy Carter was asked before a grand jury about allegations that he had illegally transferred $500,000 from loans made by Bert Lance's National Bank of Georgia into the Carter campaign. The money, Peckarsky theorized, was funneled to the Gerald Rafshoon advertising agency to purchase media time in the crucial Pennsylvania primary. Not unrelated was the indictment of Bert Lance for conspiracy to violate banking laws, and the subpoena by Special Counsel Paul Curran of all the President's business records.

Most recently, William J. Stack Jr., Rafshoon's attorney, issued a report contending, according to an Associated Press story carried in *The New York Times*, that Rafshoon's agency "did not advance money to Mr. Carter's 1976 Presidential campaign." Not quite. The actual language in the report makes reference to the agency's "capacity to extend credit to the Jimmy Carter Presidential Campaign Committee," to the tune of $430,761. A credit is still a credit, and despite the fancy footwork with the campaign-expense accounts (copies of which were not given to the press), such loans are a violation of Federal election laws if not made in the normal course of business. The questions Peckarsky raised are still being fogged over.

SYMPOSIUM: BIRACIAL EDUCATION
Kenneth B. Clark
Derrick Bell

UNLOCKING C.I.A. FILES
Charles Mandelstam

MARK TWAIN
Kurt Vonnegut

'SOPHIE'S CHOICE'
Leslie Epstein

MUGGSY SPANIER
Nat Hentoff

'OLD' OIL MADE NEW

THE GREAT DAISY CHAIN SCANDAL

FRED J. COOK

Two committees of the House of Representatives are jointly probing what they call "the greatest criminal conspiracy in American history"—a conspiracy involving oil companies all up and down the line and the rip-off of literally billions of dollars from the American consumer in rigged gasoline and oil prices.

The committees—the House Subcommittee on Energy and Power and the Subcommittee on Crime—are also contending with a cover-up that may eclipse Watergate, a cover-up that involves in varying degrees the Department of Energy, the Justice Department, the Federal Bureau of Investigation and most of the nation's press. In hearings held on May 30 and June 4, the two committees heard evidence of the conspiracy's wide ramifications.

Testimony revealed that most of the oil companies of the nation—majors, second-echelon companies, producers and scads of phony corporations—have been involved for years in a "daisy chain" operation by which oil passes from hand to hand in paper transactions, marked up at every step of the way, with illegal profits and payoffs ranging from hundreds of thousands to millions of dollars, depending on the size of the particular deal.

Despite the sensational nature of these official charges, the press has been silent. Television and radio have carried snippets of the story, the wire services have moved bits of it, but all the details simply haven't been reported in a comprehensive way or

(Continued on Page 17)

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LETTERS.

MORE ON POWLEDGE

New York City

Fred Powledge's perverse evaluation of black leadership in New York City ["Black and Blue in New York," *The Nation*, May 12] goes a long way toward explaining why the black community here trails those elsewhere in the nation in political participation and power.

Whatever Bernard Gifford's other failings, his record as Deputy Chancellor of the Board of Education exposes Powledge's remarks faulting Gifford for the financial waste he found at 100 Livingston Street as outright slander. Indeed, Gifford's well-known reports to the board, documenting fiscal mismanagement, the real costs of union contracts and racial discrimination in staffing, resulted in the ultimate tribute to their thoroughness and professionalism: Gifford was excluded from those board meetings where "serious" business was conducted—as usual.

As for the Rev. Herbert Daughtry, a classic demagogue and anti-Semitic rabble-rouser, if he didn't exist, Ed Koch would have to invent him. As long as Daughtry—the Mayor's *mitzvah*—is poisoning the air, Koch never has to say he's sorry.

The related problems of black leadership vacuum and voter apathy in New York are complex. But these are unlikely to be solved while writers like Powledge join in the favorite pastime of all groups emerging from second-class citizen status: trashing their most able members. *Benita Eisler*

New York City

Fred Powledge is anxious to damn the City of New York, and its Mayor, Edward Koch, as racist. Unfortunately, all Mr. Powledge succeeds in doing is fueling an already lit fire.

The fire was lit—so to speak—by two of Powledge's "heroes." Judge Bruce Wright calls *all* white cops "murderers." He refuses to serve on the N.A.A.C.P. Legal Defense Fund board with a white Jew. "Bizarre," as Mayor Koch termed Wright's recent decisions on the bench, was a kind word to use for Wright's brand of racism.

The Reverend Daughtry has consistently fought any effort by black leaders to achieve racial harmony in the neighborhoods of New York. Proclaiming himself a "grass-roots Martin Luther King," Daughtry forgets that King would prefer allies to enemies. Daughtry believes the more enemies he has, the more important he becomes.

"The City's 1,668,115 blacks and 6,226,747 whites deserve better," writes Powledge. Does he mean a mayor who will ignore the poverty pimps growing rich and building empires with funds allocated to the poor? Better for whom, Mr. Powledge?

The City of New York is not utopia! Given the budget cuts that must be made, no one will be pleased with the areas that are cut. Sadly, much of the cutting affects the poor, who can ill afford any cuts. Nevertheless, it cannot be said that the current city administration has dealt with the problems of the poor with any less compassion than previous administrations. Only less money. *William E. Rapfogel*

Brooklyn, N.Y.

I get the impression from Ms. Eisler's letter that either she thinks I'm black or that white Southern liberals, of which I am one, are emerging from second-class citizen status, which may well be true. I'm really getting tired of a conclusion that seems to be drawn in her letter and in Mr. Rapfogel's and that one hears a great deal in the liberal North: that blacks who act uppity (as the Reverend Daughtry and Judge Wright certainly do) in situations and places dominated by whites who are also Jewish are, therefore, by definition, anti-Semitic. That sort of thinking is a neat cop-out. Even the worst Southern white racists at least acknowledged that they just didn't like black people. Northern white liberals might consider that. *Fred Powledge*

THE DOGMA OF LIBERALISM

Claremont, Calif.

Reading Irving Horowitz's article, "Religion and the Rise of the Rev. Moon" [*The Nation*, April 7], it is hard to tell what he is saying and doubly hard to fathom what he is suggesting should be done. The issues he points to in American life are very real, as I tried to indicate in my own book, *Sun Myung Moon and the Unification Church* (Abingdon). The question is whether we should deal with these problems in our national life by striking out at the groups who point up our weaknesses, as the Moonies do.

Perhaps the leading issue he raises is the one of "separation of church and state." There seems to me much confusion abroad on this issue. It is a travesty to think the framers of the Constitution thought religion should have no influence in our civil affairs. Quite the contrary: it was assumed that religion would make itself felt, but it was intended that no *one* religion should be established and that *all* religious groups would be free to make their influence felt, within legal limits, in matters of national concern. . . .It is a mistake to say that Unification Church doctrine calls for the "integration of church and state."...

Professor Horowitz hints that the Reverend Moon denies American pluralism, but I think this rests on a misreading of Moon's doctrine. . . . It seems to me equally a misunderstanding to call the organization "totalitarian" or an "irrational response to the necessity of choice." Moonies do accept an authority in their lives, but I fear for this country the day we start deciding whom another may decide to follow. . . .

Horowitz ends by the now traditional barrage of guilt-by-association linkages of the Reverend Moon to the K.C.I.A., to fraud, and to a charge of the physical restriction of its members. The Fraser Committee report spent hundreds of thousands of taxpayers' dollars in its investigation and came up with no evidence of K.C.I.A. linkage. So little evidence has been produced for the charges of deception, fraud, physical restraint, etc., that we should be ready to declare the Moonies innocent until proven guilty. . . .

Does Professor Horowitz have a specific proposal to make, or is this just a Cassandra-like cry of lament over the problems present in our society? If it is the latter, the Moonies are ahead of him. For like John the Baptist, they have come to tell us we are in deep trouble in America. . . . *Frederick Sontag*
Department of Philosophy
Pomona College

WELL-LIGHTED PROSE

Minneapolis

I was delighted by the Hemingway parody by Richard Elman ["Stopover in the War," *The Nation*, April 28]. Mr. Elman's prose is clean and well lighted. When will we hear more from this delightful humorist? *Steven Blake*

A number of readers have sent us comments on Aryeh Neier's editorial "The Baez Letter," and we plan to publish them in our next issue.

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EDITORIALS.

The Boat People

The most pressing international issue of the moment is not the attempt to pour SALT on the nuclear arms race but the race for survival of hundreds of thousands of refugees in Southeast Asia. Mounting evidence indicates that the Government of Vietnam is forcibly expelling its Chinese inhabitants, and along with the many other refugees in that area, they have nowhere to go.

The United States has taken in more than 200,000 of these displaced persons—two-thirds of all those resettled to date—and the Carter Administration has induced Congress to up the quota twice, so that now it is 14,000 a month for the rest of 1979. The money for the new quota has not been released by Congress, however, and as a result fewer than 6,500 refugees have entered the country since the guidelines were approved in March. Even though the new quota is welcome, it is not nearly enough to avert an impending human catastrophe. Already there are estimates that more than 100,000 of these boat people have died while searching in vain for a safe harbor among our allies in the Far East, and these grisly statistics will only become worse as more people are cast out to sea.

Across the political spectrum there is a consensus that something must be done. Joan Baez and the cosigners of her open letter accuse Vietnam of torture. In *The New York Times* Anthony Lewis calls the forced exodus "a crime against humanity." And an editorial in *The Asian Wall Street Journal*, reprinted in *The Washington Post*, asserts that the United States and its allies must act at once "if the rich are to keep their credibility."

Although saving the credibility of the rich need not be our major concern, we should endorse this call for immediate action by our Government. And such action need not be taken in payment of the debt we owe the Vietnamese people because of the destruction we inflicted upon them. In all likelihood the Chinese residents would have been forced out of Vietnam even if the United States had not entered the war. It also seems likely that the Vietnamese are responding

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more to the Chinese invasion than to our own. Ironically, the belief that America is primarily responsible for the Cambodian atrocities, the Vietnamese invasion of Cambodia, the Chinese invasion of Vietnam and the Vietnamese expulsion of the Chinese unconsciously reveals a continuing assumption of American omnipotence—as though the Asians have no autonomy, no ability to act on their own, finally, no identity except as victims of our aggression.

There is of course much truth to this inverted domino theory: American intervention did set in motion many of the destructive forces at work today, and the United States is hardly an innocent bystander to Asian misery. Ultimately, however, the question of responsibility is irrelevant. Our compassion should not be limited to our own victims. For the richest country in the world to refuse help to these refugees because we did not directly cause their plight would be as immoral as refusing to pull a drowning man from the water because someone else pushed him in. Unfortunately, our history is filled with examples of exactly that response. In one of the most shameful episodes of our history we turned a cold shoulder and closed door to the victims of Nazi persecution in Europe before and during World War II. Although it does not fit our image of ourselves, there has even been a forced flow of refugees *from* our shores: from 1945 to 1960 approximately 3.5 million aliens arrived in this country, but during those same years 5.5 million aliens within our borders were expelled.

Even with the best of intentions the United States could not alleviate all of the suffering in the world, but the claim of the Asian refugees on our compassion is as compelling as the unheeded pleas of the European refugees a generation ago. If President Carter's human rights policy is to mean anything at all, what better place to apply it than to our own restrictive immigration policies and those of our allies in what *The Wall Street Journal* still quaintly calls "the Free World"? As currently applied, those policies may be the death warrant of countless thousands.

JOHN S. ROSENBERG

John S. Rosenberg is at work on a biography of Clifford Durr, who, as president of the National Lawyers Guild in 1949, called for an investigation of F.B.I. abuses.

PACs Vobiscum

It is all very well for Senator Edward Kennedy to challenge President Carter to join him in an effort "to make quality health care a right for all of our people." Whether the Kennedy version of national health insurance, which relies heavily on the private sector for its financing, or the Carter disastrous-illness plan is the best way to go about it, a feasible plan which guarantees complete health care to every American is long overdue.

We are, obviously, not encouraged by recent history. Consider hospital cost-control legislation. The last time out, the Administration lost its rather feeble fight for such legislation to the well-heeled medical lobby. Until Senator Kennedy's challenge, all we have had from the Administration is a bill more anemic than the one that was voted down in committee last year. And while millions of Americans are reeling from the dizzying rise in medical costs, the doctors and hospital lobbying groups are spending as robustly as ever.

Best-heeled is the American Medical Association's Political Action Committee—they contributed $3.2 million to Congressional campaigns in the 1974 and 1976 elections. An analysis by Common Cause, the public-interest lobbying group, revealed that A.M.A.-PAC distributed $101,259 among members of the House Interstate and Foreign Commerce Committee (which has primary jurisdiction over cost-containment) during the period beginning with the 1976 campaign through July 1978, when the committee voted 22 to 21 to defeat the President's bill. Common Cause's scorecard reads: total contributions to members voting against the bill—$85,150; total contributions to members voting for the bill—$16,109.

Lest we be accused of oversimplifying the matter, it should be said that other factors contributed to the bill's defeat, including Health, Education and Welfare Secretary Joseph Califano's inept political stewardship. Still, an aide to Representative Andrew Maguire, a New Jersey Democrat who strongly supported the bill, says that although it would be "naive" to assume that money was the only cause of the bill's defeat, "the A.M.A. remains powerful because of money, not because of sophisticated lobbying. Special interest groups"—of which the A.M.A. is a prime example—"seem to think that money alone is a quid pro quo."

The A.M.A.'s pecuniary gaucherie offers little consolation, however, given the number of ready takers (see Randall Rothenberg, "The PACs Go to Market on the Hill," *The Nation*, Nov. 18, 1978). The campaign largess showered upon Interstate and Foreign Commerce Committee members such as Robert Krueger of Texas, James Santini of Nevada and Illinois's Martin Russo was credited with tipping the balance against the bill. Last November, the A.M.A.-PAC spread around $1,562,545 in campaign contributions among a greater number of Congressional candidates than ever before. This lower cost per head prompted Max Fine, chairman of the Committee for National Health Insurance (a Washington-based, labor-supported lobbying group), to quip: "They're buying Congressmen cheaper than they ever did"—which is the first bright news we've heard on the inflation front this year.

Even if the Administration does push through cost-containment legislation in this session, the victory will not amount to much. A recent analysis in *The New York Times* showed that provisions in the bill would exempt more than half of the nation's hospitals

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from mandatory controls. And many argue that it will only encourage the other half to scale down their services for the poor and concentrate on more profitable high-technology medical services for the few with exotic diseases. But Congressmen are still running scared—fearful that A.M.A. money will be used against them if they don't vote right. As Max Fine says, "If the right-to-lifers could do it to Dick Clark in Iowa, think what the A.M.A. can do in the rest of the country."

Obviously, health care is too important to leave to the mercies of the lobbyists and their Congressional pals. Can it be that Presidential politics will give this anemic patient the shot in the arm it needs?

Judgment Day

In the June 23 issue of *The New Republic* the Iron Curtain once again clanged shut. Much could be said about the article by Sol Stern and Ronald Radosh ("The Hidden Rosenberg Case"), but we do not intend to comment now on the authors' conclusions that Julius Rosenberg was "an espionage agent for the Soviet Union" and, more startling, that "the government had no hard evidence of Ethel's involvement in her husband's spying . . . [she] was indicted and brought to trial—ultimately executed—solely as part of a failed attempt to get her husband to talk. . . ."

This theory of the prosecution's strategy, if true, should shock the conscience. Yet it remains just that—a theory, buttressed by some new but far from conclusive evidence. What we found most disturbing, though, was the extraordinary editorial that accompanied Radosh and Stern's article, beginning with the hyperbole of the title ("The Truth, After 26 Years") and the claims made for Radosh and Stern's "fresh and stunning" findings about "a case whose ambiguities may amount to a metaphor for the postwar era." Hold that metaphor, we found ourselves crying as we read the editorial and the rhetoric mounted. Where, we wondered, were the "ambiguities"? This language was not that of the historian's scrupulous inquiry into the tangled motives of men and women of another era. It bore, rather, the doom-laden cadences of Judgment Day.

A "split decision," the editorial calls Radosh and Stern's verdict, and then proceeds to split history into two warring, equally unscrupulous camps. On one side are those of the left who saw the Rosenbergs as innocent. They are the people who made "the reflexive defense of the Rosenbergs," who made the "preposterous but implicit claim that the U.S.S.R. did not recruit and use Americans . . . as spies against their own country." Moreover, even today these people (never identified) continue to reject the idea of Soviet espionage with "outraged protests." The people who believed in the Rosenbergs' innocence also believe "that [Alger] Hiss had done nothing and William Remington and even some who confessed" did nothing. And they believed and still believe on blind faith, not the evidence.

In short, *The New Republic* charges, they purveyed and continue to purvey the same kind of Stalinist factoids as did the Rosenbergs. Or, as the editorial puts it: "The Rosenbergs were extreme examples of the kind of people who inhabited this moral universe." We are then treated to a reprise of Leslie Fiedler's exegesis of the Rosenbergs' prison letters in *An End to Innocence*.

On the other side are arrayed the forces of the right—the McCarthyites, the "brutish and cool" strategists of the prosecution and the F.B.I., Judge Irving Kaufman and those who shaped the hysteria of the times and directed it against the Rosenbergs. They are also condemned. To our mind the excesses of the prosecution and the Government detailed in Radosh and Stern's article, and the coral reef of evidence that has grown over the recent years amount to the real "crime of the century," as the Rosenbergs' alleged acts were called at the time. Here were two people—one, Radosh and Stern say, totally innocent—sent to death in the electric chair for stealing secrets that were not secret, for rather amateurish and small-potatoes spying, defended by inept lawyers, hounded by a prosecution team with access to secret informers and tried by a judge who, as Vern Countryman revealed in *The New Republic*, retained lines of communication to the prosecution.

The Rosenbergs' guilt or innocence aside, this prosecutorial misconduct is the real historical news of the Rosenberg case. But instead, *The New Republic* chooses to brandish triumphantly Radosh and Stern's perhaps premature verdict, then to claim that it lights up, like a flare, the entire American cold-war battlefield: the robotlike armies of the left who reflexively insisted upon the Rosenbergs' innocence stand starkly revealed. And, what is more, they are with us still, these "self-styled American idealists [who] in a search for roots, link themselves with the old fellow-traveling left," with its "soft spot for dictators, its contempt for scruples, its abuse of language and people," etc., etc.

Such a judgment is awesome in its sweep; it transforms an entire, nebulously defined "left" into a dark, mendacious, anti-American force of evil and consigns it to an eternal purgatory of political obloquy. In its holy zeal to force the dead and the silent to open their lips and reveal their secrets, *The New Republic* has regressed to cold-war simplicities. It has assumed the posture it purports to attack, implying that, henceforth, all who question the facts are motivated by ideology, rather than a search for truth. We are back in the 1950s, and all that has come forth since then

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has had no effect (nor, it should be said, has the healing charity of time been allowed to work its medicine). Instead of seeking to interpret this "metaphor for the postwar era," *The New Republic* has abused it, grabbing blindly for the ultimate certitudes of eschatology.

Follow-ups

In a review of Allen Weinstein's book *Perjury: The Hiss-Chambers Case* in *The Nation*, April 8, 1978, Victor Navasky reported he had learned from a number of Weinstein's sources that Weinstein had misrepresented them in his book. *The New Republic*, calling Navasky's review "intellectually spurious," published an article by Weinstein replying to Navasky's charges. Subsequently, Sam Krieger, who was erroneously identified in the article, brought suit for libel and won an out-of-court settlement of $17,500. Pursuant to the settlement, the following apology will appear in *The New Republic* (preceded by a quotation of the offensive matter in the original article):

A Communist Party organizer named "Clarence Miller" was involved in events referred to in the portion of the article quoted above. Although Mr. Krieger did use the name "Clarence Miller" as a pseudonym in the Communist Party in the 1920s, Mr. Krieger was not the "Clarence Miller" who was involved in the Gastonia strike; nor was Mr. Krieger involved in any way in the Gastonia strike; nor did Mr. Krieger later flee to the Soviet Union; nor did the emigre Russian woman referred to in my April 19, 1978 article ever visit Mr. Krieger or identify him as Clarence Miller or as anyone, as I believed when writing the article; nor did Mr. Krieger retract any statement previously given me.

I regret any distress caused Mr. Krieger by this misidentification and by the statements *The New Republic* article quoted above. /s/ Allen Weinstein

The New Republic also regrets any distress caused Mr. Krieger by this misidentification and by the statements in *The New Republic* article quoted above.

Further note. For his review, Navasky was nominated for a National Magazine Award by the Columbia University Graduate School of Journalism. For his book, Weinstein was recently awarded $500 by the National Intelligence Study Center. What is the National Intelligence Study Center? An organization of former and present C.I.A. officers.

VARIATIONS

CALVIN TRILLIN

Foreign policy analysts disagree about the cause of my increased willingness to make a scene while traveling in Europe. Some of them believe it may have something to do with the rising influence of hard-liners in the Senate or perhaps with the emergence of Eurocommunism. (The latter analysis is based on the theory that patriotic Americans who used to avoid scenes in Western Europe because the Europeans might have got mad enough to become Communists no longer feel the need to be well-behaved, since the Europeans are Communists anyway.) There are analysts who believe that the decline of the dollar and the rise of the Arabs may have liberated some American tourists who felt sensitive about being embarrassingly rich. European hotel managers and headwaiters and airline managers do not know why I am increasingly willing to make a scene. All they know is that I'm a terror.

I hope the reason for my increased belligerence is in some way geopolitical. The alternative would be that I'm simply getting old and crotchety. With age, of course, comes a certain amount of sophistication. I would like to think that on those moments when I rise from the table in order to maintain a dignified stance while dressing down the headwaiter for wretched food and stringy veal, I am less likely than I once was to spoil the effect by permitting my tie to fall into the *soup du jour* on the way up. I would like to think that I am also less likely than I once was at such moments to be addressing the busboy by mistake.

For whatever reason, I am now a maker of scenes. I have become skilled enough, in fact, to be able to observe the effect of the shouting match with some detachment while it is going on—even though the person I'm observing shouting the loudest happens to be me. I now have the sort of expertise at scene-making that the average French sommelier has in passing off his worst wines on Americans who are unwilling to make a scene. Because of the generosity of spirit for which I am known—a generosity of spirit that might not have been evident to the last hotel manager I shouted at about the cramped and grimy room for which he presumed to charge a sum that could adequately support a Spanish family of four in moderate circumstances for a year—I intend to share that expertise with my fellow citizens. I have in mind principally my fellow male citizens: the two areas that seem invulnerable so far to the movement for women's liberation are emptying the garbage and sending back the wine. I have gathered the following tips mainly for the American husband who, through timidity or ineptness, has been unable to become a truly effective troublemaker—the man who has found his $3,000 trips to Europe marred somewhat by the tendency of his wife to say at least once a day, "Charlie, why do you have to be such a klutz?"

§ It is basic that, just before the scene is going to start, you inform your wife that this might be a nice time for her to take a stroll in the garden. You don't want her around saying, "Charlie! Remember your heart!" or if you happen to have the other sort of wife, "Charlie, stop making such an absolute ass out of

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ɔurself this instant!" Also, your honesty and integ-ty is undoubtedly one of the pillars her life is built ı, and it might upset her to hear you make some .atements that she knows are not precisely true—the .atement about your connection with the house of othschild, for instance. You may think that your ife has some skill herself in embellishing facts while eeping a straight face, but my research on the sub-ct indicates that there is not a woman in America ho can refrain from looking a bit surprised when er husband refers to her constantly in conversation ith a hotel manager as *"la principessa."*

§ The only proper language to make a scene in is nglish. I don't mean that a bit of the vernacular an't be effective for minor skirmishes. In Spain any years ago, an American traveler I'll call Andrew D. Kopkind—whose Spanish consisted almost ıtirely of a Francisco Franco quotation he had mem-ized, for antic reasons, from a billboard at the rench border—cut down a woman who was trying to ıeak into a bullfight-ticket line by saying to her, in ıe same frosty Spanish the *Caudillo* might have sed to quote himself, "Madam, there is no liberty ex-ept within order." For the large battles, though, it is ɔviously wise to follow the example of General de ; aulle, who insisted on negotiating in French for reasons that are clear to anyone who ever observed the majesty of Pope Paul VI evaporate as he attempted to address some of his flock on television in English. The notion, popular in the 1950s, that an American should have enough respect for people to speak to them in their own language while in their own country is fine when applied to conversations with shoeshine boys. It was never meant to apply to conversations with hotel managers, headwaiters, or the man who just sent your baggage to Naples by mistake and suggests that you inquire after it at the lost and found window of the Naples airport. If they cannot speak English, they can always find an underling to act as interpreter. It is not a bad idea to make occasional corrections in the underling's use of the subjunctive.

§ Rank and station are still important in Europe. If Europeans believed in true, American-style democracy, after all, they would have emigrated long ago to some place like the South Side of Chicago. A computer programmer from Columbus who is taking his first trip to Europe, on the occasion of his wife's 30th birthday, need not emphasize those details when he lodges a complaint with the hotel manager of some luxurious resort hotel whose laundering staff has destroyed what were once three of the hippest rugby shirts in central Ohio. As the manager stops by the computer programmer's table on his nightly courtesy-rounds of the dining room, the computer programmer should rise from the table and begin, "Although the *principessa* and I have, of course, stayed in many hotels of this category, never before. . . ." He should then hope that the manager's reply will not be, "Excuse me, sir, but you appear to have your necktie in the soup."

SYMPOSIUM

BIRACIAL EDUCATION—TWO VIEWS

Separate Is Still Unequal

KENNETH B. CLARK

Twenty-five years after the Supreme Court ruled in *Brown* v. *Board of Education* that "separate educational facilities are inherently unequal," the majority of black students attending colleges in the Southern states are in traditionally black colleges. Even though the Supreme Court, in a series of decisions before and after *Brown*, made it possible for an increasing number of black students to attend traditionally white state-supported colleges, universities and professional schools, a dual and segregated system of publicly supported higher education is today the dominant and seemingly accepted educational reality in the South. The most visible and dramatic desegregation of traditionally white Southern colleges takes place in varsity sports such as basketball and football. Beyond admitting the potentially outstanding athletes and a small elite minority of black students, the traditionally white colleges remain so; and the colleges attended by the majority of black students remain predominantly, if not exclusively, black.

When one seeks to understand why this uneconomical and educationally unsound dual racial system of state-supported higher educational institutions is not dismantled, one is confronted with a number of justifications for a dual system, justifications that, upon careful analysis, turn out to be rationalizations for maintaining the racial status quo. These rationalizations are inconsistent; they reflect deep fears of change, and a desire to preserve and protect vested interests. Their common denominator is the desire to defy the Constitution of the United States with impunity.

The most common justification for preserving traditionally black colleges is the claim that they meet "a special educational need" of black college students. The elementary and secondary education most black students receive, the argument runs, does not prepare them to compete with white students in meeting the admissions and academic performance standards demanded by traditionally white colleges. This argu-

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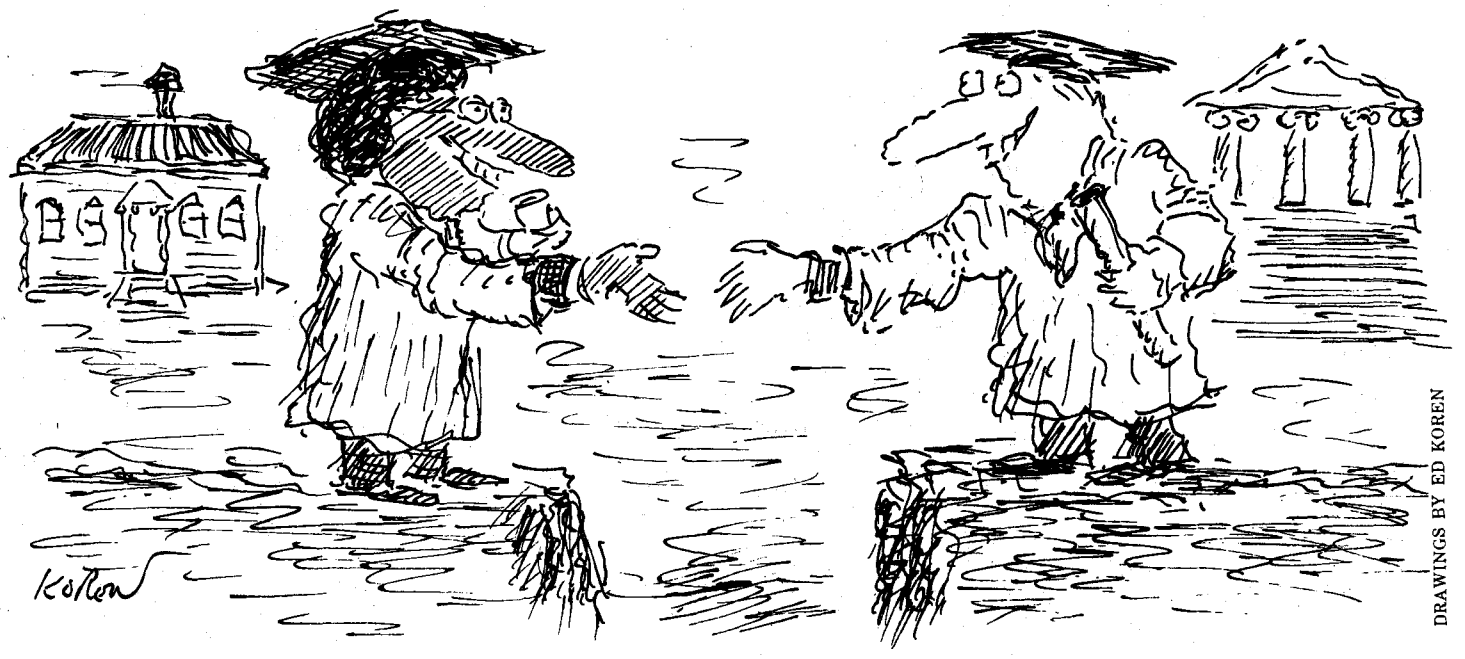
ment assumes that inferior education of black students persists in the elementary and secondary schools twenty-five years after the *Brown* decision, despite its prime objective of providing equality of educational opportunity for these children. This assumption is, on the whole, correct. But the argument also assumes that black children's educational inferiority is irremediable because they are inherently backward intellectually or culturally deprived and thus unable to learn, or some other such premise. These assumptions are false, but they are self-fulfilling and underlie the perpetuation of separate black and white colleges. Therefore, the attempt to justify the continued existence of state-supported black colleges is an abject admission that these colleges are necessary to meet the "educational" needs of inferior students by offering them inferior admissions and academic standards.

Actually, black colleges perpetuate inferior academic standards for black students and award Jim Crow degrees that do not meet the standards of the average traditionally white colleges. It is significant that nowhere in the "evidence" presented by those who seek to justify the special mission of the traditionally black colleges is there any description of systematic educational remediation, and concentrated enrichment programs designed to raise the academic level of these students so that they can in fact meet the same standards of academic, professional and occupational performance that whites do. There is also an insidious racial implication in the tacit assumption that white students do not themselves need special educational remediation or academic enrichment. It is assumed that the majority, if not all, of the white applicants can be admitted to traditionally white colleges, but only a relatively small percentage of black students.

Probably the most difficult and dangerous resistance to the disestablishment of the dual racial system of publicly supported higher education comes from those blacks—particularly blacks now involved in the administration of the black colleges—who plead that segregated colleges should be perpetuated. These black educators present essentially the same arguments for the defiance of the *Brown* decision that white public officials offer, namely that blacks cannot compete in white colleges. They contend further that traditionally black colleges should be perpetuated because they have some special cultural value for black students. They want to isolate black students from premature competition with white students. But in becoming open advocates for the perpetuation of the dual higher education system, they have persuaded many whites that blacks have abandoned the hope of integration. These blacks are encouraged by many reasonable whites and liberal foundations who dangle before them the tantalizing bait of financial support that will strengthen black colleges and make them "equal" to white colleges.

But invariably the grants to black colleges for such basics as improving the quality of faculty, strengthening and expanding course offerings and generally raising, maintaining and monitoring academic standards are woefully inadequate to meet urgent present needs. Presidents, administrators and faculty of black colleges know that short of major reorganization of the entire American higher educational system that eliminates racial considerations, black colleges will not be made equal. If a black college were, in fact, equal or superior to the average white college in a given region of a state, it would quickly become racially integrated. Separate but equal is a contradiction in terms for blacks, as the Court so clearly understood in its *Brown* decision.

There is an understandable vested interest in the maintenance of the racial status quo among blacks now employed in traditionally black colleges. Sometimes this interest is expressed directly and candidly. Many fear that disestablishment of the dual racial system will cause the many black administrators and



DRAWINGS BY ED KOREN

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faculty to lose their jobs and be replaced by less-qualified whites. There is certainly a need to protect the employment rights, status and tenure of those blacks who are qualified by training, experience and ability to compete under a single nonracial standard. And there must be safeguards to prevent whites of mediocre and inferior abilities from displacing blacks. If there is a commitment, this can be done.

The nation's educational leadership and the government must devise imaginative and flexible strategies that make a nonracial public higher educational system possible rather than taking the easiest and generally undesirable way out—simply shutting the doors of traditionally black colleges. Within a state, duplicating and, hence, competitive programs between the present black and white colleges should be abolished, since duplication has the effect of siphoning off the cream in resources to majority white colleges and of maintaining not only a separate but an unequal system. In some instances, college structures can be merged, with each designated campus having unique programs, not available elsewhere, such as veterinary medicine or computer training. A faculty would be apportioned between the two segments of the merged campus. In other instances, traditionally black colleges could be transformed into intensive graduate centers, specializing in business or public service, urban studies and foreign service, for example, thus attracting top-level faculty and reputation. What is not acceptable is to operate duplicate programs—one inevitably inferior to the other—on separate black and white campuses.

If indeed the average black faculty member or administrator in traditionally black schools cannot compete with the average white faculty member under a single standard of academic quality, the problem of job security for blacks becomes more complex. If it *is* a fact, then it is further proof that the racially segregated publicly supported colleges are not only separate but are also unequal and inferior. But that means there is all the more need to remedy this intolerable situation—no matter how painful the remedy must be in its initial stage.

Any serious and objective analysis of the problem of racially segregated education at any level and in any region leads inevitably to the conclusion that the existence of such schools is a residue of past racism and a major factor in the perpetuation of present and future racism. Those who seek to justify the continuation of the dual racial system of education intentionally or inadvertently reinforce the present educational inferiority imposed upon the majority of black students in this country.

There has been no evidence to refute what the Court said in *Brown*: "separate educational facilities are inherently unequal." Whatever might have been the value of black colleges in the seventeenth century and up to World War II, their continuation—particularly state-supported, publicly funded colleges—is a flagrant violation of the letter, the spirit and the goals of the *Brown* decision. It marks a return to *Plessy* v. *Ferguson*. Black colleges and white colleges are educational anachronisms. Racial considerations intruding upon the educational process contaminate education at the source. Education is the awesome struggle to free the human mind of constrictive parochialisms, superstitions and ignorance. □

Integration Can Be Unequal, Too

DERRICK BELL

On January 1, 1863, Abraham Lincoln issued the Emancipation Proclamation, the nation's first civil rights law. Like most of its successors, the order ending slavery in the states and territories of the Confederacy was highly controversial. Its legality was questioned, its wisdom challenged, but even critics acknowledged that Lincoln's action had enormous political importance. Blacks, whether bondsmen or freedmen, ignored its limitations. They viewed the Proclamation as proof that the country's whites at last were acknowledging what they as blacks had always known: that slavery was a moral evil and a legal abomination. Acting on that proof, many blacks proceeded to free themselves.

On May 17, 1954, the Supreme Court ruled in *Brown* v. *Board of Education* that state-mandated segregation in the public schools violated the Constitution. The decision was controversial. Its legality was questioned, its wisdom challenged, but few doubted the political importance of the Court's pronouncement. Blacks, having suffered under the restraints and limitations of Jim Crow laws for three-quarters of a century, hailed the decision as proof that the nation's whites were ready to acknowledge what blacks had always known: that segregation was a moral evil and a legal abomination. Acting on that proof, the civil rights movement was born.

The parallels between the Emancipation Proclamation and the *Brown* v. *Board* decision can be extended. The Proclamation was the precursor to the Civil War Amendments which formally abolished slavery, made blacks citizens and gave them voting rights. Initially though, the Proclamation, by Lincoln's admission, was issued primarily to help save the Union, not to free blacks. It disrupted the Southern work force, discouraged European countries from recognizing the Confederacy and paved the way for recruiting blacks as soldiers.

But by 1877, the nation's interests had turned from concern with black equality to growth, expansion and Manifest Destiny. Appeals for help based on the Emancipation Proclamation were ignored, as were

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black leaders, whether calling for more racial cooperation or for separate black enterprise. Survival required self-reliance and great flexibility. A black willing to shoot a Klansman from his horse during a Ku Klux Klan midnight attack on his home, might in town the next noon step off the sidewalk to give way to passing whites.

The *Brown* decision, too, furthered white interests. Forswearing its official policy of apartheid enabled the country to more effectively compete with Communism abroad and lessened its potential at home. Jim Crow laws hindered the mobility required for the industrialization of the South, and by ending segregation, the United States alleviated the most serious complaint of its black citizens without altering substantially their subordinate economic and political status. But it is now 1979, and the nation's interests have this time turned from black equality to national security, domestic self-indulgence and the maintenance of the status quo.

The commitment to the principles of racial equality embodied in the *Brown* decision is not dead, but there is little willingness on the part of most whites, including the President of the United States, to advance these principles if it requires taking risks or making sacrifices. And desegregating the country's schools by racially balancing pupil populations requires more than a little risk and sacrifice. This is especially true in urban school districts where the minority population is high, housing segregation is extensive and suburbs offer conveniently available escape routes for middle-class parents when school-desegregation orders take effect. Those who cry that such parents are racist ignore the avoidance by middle-class black parents of involvement in court-ordered desegregation when their means permit.

We must face it. The Second Reconstruction, or at least those self-interest aspects of it that garnered wide public support, is over. Unswerving commitment to the goals of *Brown* as we envisioned them in 1954 will not bring them back, and could endanger gains already made. In fact, equating racially balanced schools with the right to an equal educational opportunity is a certain formula for losing both. There is simply too much evidence that integrated schools, even when achieved, do not bring either interracial understanding or academic improvement for poor black children. The prevailing sense that while individuals are entitled to be treated as individuals, whites as a group are entitled to priority over blacks as a group, serves to perpetuate racial discrimination in the integrated school to an extent that is hardly different and arguably worse than that experienced in the former "separate" schools.

Today, as during those far more dangerous years after the Hayes-Tilden Compromise of 1877, blacks and those whites who would advance the ideal of racial equality need to eschew rigid slogans and, in the area of education, support policies that are most likely to offer poor black children an effective education. Without it, these children face a future much more bleak for them and ominous for us all than anything envisioned by Chief Justice Earl Warren. In some smaller communities, the best tactic may still be the classical integration remedy: racial balance of pupils and teachers, and busing as needed. But in the cities and suburbs, where rigid adherence to such tactics simply increases the percentage of blacks in the schools, and in some areas threatens the very survival of the school systems, alternative avenues must be explored.

There are now dozens of private and public schools in this country where poverty-level students are learning in trouble-free classrooms, testing at and above national norms, and graduating and going on to college. The educational effectiveness of these schools is not harmed by all-black student enrollments. Indeed, educational programs and materials can be geared to the special learning needs of the students. Educators know that while these schools differ in approach, they share components that seem crucial to their success: strong leadership from the principal, involvement of parents in the educational process and a sense of accountability among teachers. The models these effective black schools present are not easy to duplicate, but they are not impossible either. Certainly they will not engender more resistance than current racial balance remedies, and as some successful magnet schools in black neighborhoods have proved, good schools will attract white students.

Will policies resulting in all-black schools violate the principles of *Brown*? I think not. The landmark 1954 decision voided coerced segregation. Racial balance was a technique adopted later to insure that recalcitrant school districts complied with *Brown*. But in most urban districts today, school officials are not entirely responsible for existing racial isolation, and whether or not responsible, there simply are not enough whites to make balance possible. The Supreme Court, moreover, has rejected metropolitan remedies, measures which in any event would likely have sparked a Constitutional amendment against all school desegregation before they succeeded in their educationally questionable goal.

The presence of middle-class whites in a classroom is no guarantee that the money and concern their presence attracts will benefit black students from low-income families. Certainly the presence of white children is no substitute for the involvement in school affairs of black parents, involvement made difficult if their children are assigned to schools far from home. Segregated schools in the days before *Brown* were usually bad, not because they were black but because school officials excluded black parents from any policy-making role, setting policies themselves that furthered white convenience rather than black educational needs. Busing poor black children to far-off mainly white schools achieves, albeit with the best of intentions, precisely the same educational result, for all but the most extraordinarily able and well

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adjusted black children.

Not all black parents will agree with my assessment, and thus plans to make black schools educationally effective should permit the voluntary busing of black children to any available mainly white schools. Indeed, some parents may wish to send one child to a black school in the area, and have another bused to a white school across town. The kind of flexibility that makes educational sense within a family is equally worthwhile for the black community. It is, by all odds, the best hope of educating our children until the combination of our demands and the pressure of future events convinces whites that it is time for another major civil rights law. □

ARTICLES.

UNLOCKING C.I.A. FILES

How to Win (?) An F.O.I. Suit

CHARLES L. MANDELSTAM

Few countries have an explicit national policy that gives citizens access to governmental records and information. In Britain, for example, secrecy laws are so stringent that someone was recently charged with a violation of the Official Secrets Act for writing the name of a certain intelligence agent in the sand on a beach, a name soon washed away by the tide. The United States, in contrast, has embodied the lofty principle of open access in a broadly worded, seemingly generous statute, the Freedom of Information Act.

A recent case under the act demonstrates that a determined Government agency, the Central Intelligence Agency in this case, can frustrate the law's policy and purpose, and do so without serious judicial interference. W. H. Ferry and his wife, Carol Bernstein Ferry, brought suit against the C.I.A. demanding access to the agency's files on them. The political activities of their adult lives—the transgressions one assumes gave rise to the C.I.A. interest in them—can be summarized as follows:

W. H. Ferry has been a lifelong speaker and writer against what he considers to be governmental and private iniquity. During World War II he issued warnings about the Federal Bureau of Investigation. In 1949 he became a member of the Joint Anti-Fascist Refugee Committee. During the 1950s he was executive vice president of the Fund for the Republic. In that same period he made numerous public statements against atomic and hydrogen bomb developments, bomb shelter programs, the American Legion and the Communist-hunting committees of Congress. In the 1960s he wrote articles and made speeches critical of the F.B.I. and J. Edgar Hoover and of police treatment of the Black Panthers and other minorities. He was a frequent contributor to *Ramparts*, *The Nation* and other left magazines. In the late 1960s he was a member of many committees opposing the Vietnam War and was a member of pacifist groups; for ten years he was vice president of the Fellowship of Reconciliation.

Carol Bernstein Ferry has been active in Women's International League for Peace and Freedom, Fair Play for Cuba Committee (she traveled there in 1960), Westchester Committee for Black Panthers, Women's Strike for Peace and the McCarthy Presidential Campaign.

The litigation lasted for more than three years, with fulsome pleadings, interrogatories, motions, hearings, briefs and an appeal from a Federal magistrate to the District Court. Four lessons emerged:

§The C.I.A., and certainly other like-minded agencies, can frustrate legitimate requests for information.

§Through all the agency-caused fog it was still clear that the C.I.A. undertook highly improper action concerning lawful domestic activities.

§The C.I.A. continues to be able to function essentially free from judicial correction of its questionable conduct.

§It is so costly to undertake a conscientious effort to secure information the agency wants to withhold that only the rich and brave can make the attempt.

Much of the material plaintiffs ultimately succeeded in obtaining—only a fraction of the whole file—was converted into gibberish by excisions made before release by the C.I.A. for the asserted (and judicially upheld) reason of "protecting national security" or avoiding "invasion of privacy." Nevertheless, this material revealed that the Ferrys had been the object of intense interest by the C.I.A. for activities which were exclusively domestic and fully protected by the First Amendment. Although enormous portions of individual documents were deleted, the magistrate's comments about the denied segments—he saw them in camera—made clear that the C.I.A. never believed that the Ferrys were even remotely involved in espionage or any other *legitimate* target of the C.I.A. For example, even when Carol Ferry was mentioned in a 168-page document that was based, counsel was informed, on material provided by a foreign intelligence source (the document was withheld virtually in its entirety precisely because of this claimed foreign intelligence origin), the magistrate made clear that nothing in the report remotely suggested any espionage or other wrongdoing on her part.

Another example amply demonstrates how the statute can be frustrated. A C.I.A. affidavit described what came to be known as Document 13 as a brief "internal working document relating to administrative and filing procedures of an agency component."

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Under a provision in the act that allows the agency to withhold clerical and administrative procedures, the document was thus exempt. Later in the proceedings, however, a new affidavit arrived which announced that Document 13 was a "one hundred and sixty-eight page memorandum dealing with a foreign espionage apparatus." Not exactly the kind of document easily mistaken for a description of "administrative and filing" procedures.

One of the problems of Freedom of Information Act suits is that normal pre-trial procedures, which include the right of a plaintiff to put an employee of the defendant under oath and ask questions much in the manner of a cross-examination, are not available as a matter of right. The Ferrys were allowed no pre-trial discovery except written questions. These are practically useless in obtaining information if the witness is determined to resist, and true to form, they yielded nothing of value in the Ferry case. Under the constraints of the law, the Ferrys had no basis for evaluating the accuracy of the initial description of Document 13 because they were prohibited from cross-examining the affidavit's author under oath on why the document was described as administrative, what caused the radical change in description, and so on. A possible sanction against future dissembling was thus lost.

The C.I.A.'s administration of the act's various exemptions from disclosure further illustrates how the law's intent can be frustrated. One exemption protects "intelligence sources and methods." This was invoked in connection with all of the Ferrys' files relating to the C.I.A.'s investigation and surveillance of *Ramparts* and in connection with documents produced in the course of its Operation Chaos. The Ferrys argued that both operations abridged the exercise of free speech. Since the surveillance certainly involved activities within the confines of the United States, it was illegal, a conclusion reached by the Church committee. Under the precedent established in previous cases on similar C.I.A. behavior, the agency should have been barred from using its illegal activities as a shield against disclosure. But the court bought the agency's argument that even if the activities were illegal, there was a paramount right to protect intelligence sources and methods.

Actually, a principal purpose of the statute was to throw light on the C.I.A.'s clandestine activities in order to discourage its use of illegal intelligence sources and methods in the future. But the agency successfully argued that once intelligence sources and methods were involved, the Ferrys could be denied parts of the documents in question, even though the intelligence activity was unconstitutional and violated the C.I.A.'s charter. A clearer frustration of the law's intent would be hard to find. The C.I.A. should have been required to reveal its sources and methods in the *Ramparts* investigation and in the Chaos operation precisely because they were illegal.

The privacy exemption proved to be another powerful frustrator. Although the statute says that only "clearly unwarranted invasions" of privacy justify withholding a document, the C.I.A. applied the exemption so broadly that nearly every name other than the Ferrys' was removed. As became evident, the determination of what was an invasion of privacy depended entirely upon the subjective judgment of the C.I.A. reviewer.

Neither the legislative history of the act nor the other cases under it remotely suggest that political affiliation, attendance at public rallies or teaching at recognized colleges are the kinds of intimate personal details that should be suppressed. Nor is there any indication that the exercise by other individuals of *their* First Amendment rights justifies nondisclosure of the details of those activities. The privacy exemption, in fact, appears to refer to intimate details of a personal nature. By definition, activities protected by the First Amendment involve no intimate matters.

For all its obstructionist tactics and dissembling, the C.I.A.'s wasteful, even silly, activities stood revealed. For example, Document 19, a sanitized copy of a memorandum created in 1967, contained the names of twenty-five individuals whose writings are categorized as "pushing the Communist line." One aspect of the document consisted of 3" by 5" cards containing information on the individuals who "pushed" that line. Naturally, the cards on everybody but the plaintiff (this involved only W. H. Ferry) were withheld. The entire contents of all three cards bearing Ferry's name consisted of the following. The first reads "[He writes] society is worn out. An ad hoc committee to which he belongs advocates guaranteed annual income for all. [He says] the era of abundance is leading to a great crisis for which no one is prepared." The second lists "Communist-line" writers for *Ramparts* and plaintiff's name is supplied, other names blocked out. The third was a clerical document which cross-references the *Ramparts* file. That's it. Nothing more. Three separate entries presumably by three C.I.A. employees made at three separate times.

Although it would be difficult to conceive an even more absurd or wasteful activity for an intelligence agency, Ferry's file yielded other examples. The C.I.A. apparently decided its mandate to gather intelligence on foreign threats to the United States authorized it to study something called the Radical Education Project headquartered in Ann Arbor, Mich. The data on this threatening organization in the W. H. Ferry file revealed that it was an "independent educational organization . . . devoted to cause of democratic radicalism and aspiring to the creation of a new left in America." A particularly astute bit of intelligence analysis established that the Radical Education Project "identifies with a community and vision of democratic radicalism, humanistic, committed to individual freedom and the general welfare."

A line-by-line reading of the five and one-half typed pages about this organization contains more of the

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same. Not a hint of espionage, not a hint of sabotage, not a hint of covert activities is contained in the file. The agency's investigation did show, however, that the project "intends to establish an international intelligence network." At last, something ominous—even a justifiable object of C.I.A. investigation. Disappointment follows, however, when the document goes on to show that this network was to comprise "a resource group of left-wing scholars on each important national area" who "will seek to establish and maintain frequent correspondence with radicals active in left movements abroad. These documents will provide a basis for building an international intelligence network for the peace movement." Apparently the double meaning of the phrase "international intelligence network" set an agent's alarm bells ringing. The reference to W. H. Ferry noted that he was one of fifty-eight persons connected with the organization. Here, oddly, all names were eventually released. Among the other fifty-seven were a well-known member of a state legislature, a world-famous cartoonist, several dozen notable professors, writers for widely read daily and weekly newspapers, authors of books, lawyers, and other villains.

This expenditure of public funds on gathering literature of the Radical Education Project, employing clerks to index and cross-index it, summarizing articles written by these individuals in publicly available magazines, and the surveillance of conferences held at leading American universities accurately reflects the level of the agency's activities, at least as they involved the Ferrys.

Yet these very extremes of silliness and waste provide a ray of hope. One senses that the agency grasps, at least dimly, that a huge sum of public money was spent gathering an enormous amount of authentically useless information. Moreover, the C.I.A. must now recognize that in some litigated cases a judge or magistrate will scrutinize its files; even with delays and obfuscations, some of the true character of improper C.I.A. domestic activity has and will continue to come to light in the disclosures that are directed. The agency may lose some of its enthusiasm for undertakings that will look foolish.

Still, cause for gloom remains. Only the affluent and those with a lot of patience as well are going to be able to sustain a three-year, $18,000 lawsuit—that is the out-of-pocket cost to plaintiffs after the court awarded them counsel fees of $12,000 (less than half the attorneys' actual time charges). Not to be forgotten, either, is the fact that the agency did undertake a costly surveillance of people engaged in conduct no more grave than speech, writing and assembly. Why should a government agency be allowed to monitor, on any basis or justification, First Amendment activities, given the chilling effect of the monitoring? Doesn't spying on people of itself inhibit the exercise of First Amendment rights? The belief that it goes on—even if it is known not to take place in a particular activity—must surely produce an adverse effect.

It takes a rich, patient, persistent and brave First Amendment user to press for his or her file. It takes a rare person who is assured about his future to slug away at the C.I.A., especially since eras of political oppression tend to be cyclical in America and the agency has a long memory. Who could feel secure with a C.I.A. file on him containing information such as that on the Ferrys, in view of the Red scare of the 1920s, the Smith Act litigation of the 1940s, the McCarthyism of the 1950s and the Nixon-Mitchell era of the 1960s?

And what of the Freedom of Information Act? Is it any good? The act does have a valid and useful public policy behind it. Its enforcement ought to be made easier, firmer, surer, swifter and cheaper, however, so that its purposes can be achieved. For a start, Congress should declare all instances of illegal or improper domestic surveillance as automatically calling for full disclosure without any exemptions. Let these intelligence sources be revealed, for by definition they are criminals. Second, those who administer the statute on behalf of the agency who willfully delay or frustrate disclosure ought to face criminal sanctions, duly enforced by United States Attorneys. The C.I.A. functionary, for example, who stated under oath that Document 13 was a brief administrative and clerical procedures document ought to be prosecuted for perjury, the chief evidence against him being the later affidavit, also under oath, declaring that Document 13 was in fact a 168-page document about some alleged foreign espionage apparatus. Third, the statute's time period ought to be rigidly adhered to and those who delay subject to fines so that the endless delays and endless maneuverings can be avoided. Fourth, the statute ought to remove any discretion in the granting of attorneys' fees so that successful litigants can count on their legal fees and court costs

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being reimbursed in full. That would force the agency to give up documents without requiring litigation. Finally, the agency ought to be subjected to the truth-generating consequences of pre-trial depositions, limited, to be sure, to illegal activities and improper domestic activities and to those aspects of the administration of the act which would inform litigants whether the material being released is in fact all of the information gathered by the agency.

Of course defenders of the intelligence community will propose distinctions to permit the agency to carry out intelligence activities overseas. So be it. The Ferrys never once doubted that the agency has a legitimate intelligence-gathering function, within the confines of its charter. It is quite another matter to have the agency spending hundreds of thousands, almost certainly millions, of dollars watching and noting and recording, as one typical example, a meeting to protest the Vietnam War, a meeting held in Madison Square Garden, New York City, not in the dark of night but with newsreel cameras, television cameras, a thousand photographers taking snapshots and many thousands of people witnessing and hearing nothing more dangerous than a speech or two or three. The thought that the house was papered with C.I.A. agents, whose salary was paid with taxpayer money, and who reported on the names and comments of people attending this open marketplace of ideas—with yet other agency employees in Washington sifting and indexing and recording and cross-referencing all this nonsense—leads one to wonder about (and fear a little) the destiny of a nation whose resources are slowly running out and which can ill afford that (or any other) waste of public money. □

GUIDELINES TO NOWHERE

Price Controls—There's Method In the Muddle

WILLIAM K. TABB

Each day it becomes clearer that a Democratic President can get away with being a conservative Republican much better than any Republican can. A case in point is the remarkable success of Mr. Carter's voluntary wage-price controls in favoring capital over labor. Whether they can work to hold down prices (few economists, or anyone else, think they can), and whether they lead to mandatory controls (most observers think they will), they have succeeded so spectacularly well that they make the Nixon controls appear downright progressive.

As long as he can get away with it, Jimmy Carter will cling to some form of voluntarism in economic policy. There is method in his muddle, and we miss both the intent and the achievement of his policies if we see only his seeming indecisiveness and lack of leadership. To see Carter economics as bungling is to miss the essence of the current economic scene. The alternative to the President's ineffective anti-inflationary policy of voluntary cooperation is mandatory controls that make the questions surrounding how wages, profits, dividends, interest and rental income are arrived at matters of conscious political debate. Such openness is the last thing the Carter Administration wants.

The reason mandatory wage-price controls have not been instituted has less to do with the lessons allegedly learned from the "failure" of the Nixon controls in 1971 than with the rightward drift of American politics. Even with less than 6 percent unemployment, Nixon felt he had to act or pay the serious political costs exacted by a liberal Democratic Congress and an angry electorate. In 1979, with the seeming ascendancy of neo-conservative ideology, Carter can in effect hold down wages and allow profits to increase dramatically, thus achieving the dream most conservative Presidents could never attempt.

The reason President Carter clings so tenaciously to his "voluntary" wage-price controls is that to switch to mandatory ones would require opening up the politics of income distribution. As things are going now, unions are forced to settle for less than they might otherwise have got (the Oil, Chemical and Atomic Workers settled for a contract that met the guidelines and will leave members significantly worse off after two years than they are now). The International Brotherhood of Teamsters, as expected, did far better and the United Auto Workers have pronounced the guidelines dead. But rank-and-file anger is mounting as a result of price and profit trends. For under Carter-style controls, prices and profits are really not controlled at all.

This is why the establishment press and White House operatives have worked so hard to discredit George Meany, pooh-poohing his put-up-or-shut-up demand for either mandatory controls or no controls at all. Meany's views on controls are shared by many in the labor movement. The statement by the United Steelworkers of America that "Carter's program fails at the starting line because it controls nothing else except wages" or the judgment of the International Longshoremen's and Warehousemen's Union that the program is a "political con job calculated to deceive the American people into thinking something is being done," and numerous similar union statements have

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all but been ignored in the press. Indeed, from *The New York Times to The Podunk Herald*, editorial writers continue to blast irresponsible labor for not cooperating with the national interest.

What the press fails to report are the very real grounds the unions have for these fears. It does not take much sophistication to understand that with prices rising at 15 percent a year—or even 10 or 12 percent—a 7 percent wage increase is going to take away income from the workers and redistribute it elsewhere.

Yet price controls are difficult to administer in an interdependent world economy dominated by global corporations. Imports must be exempted from controls (including foreign petroleum and other crucial raw materials). For if the United States refused to pay going world prices, goods would flow to higher bidders elsewhere. Moreover, even with the best of intentions, some areas are difficult to regulate—agriculture, for example, where weather and other unpredictable factors affect costs and supply.

Controls could be expected to work best in the manufacturing sector, but it offers difficulties of its own. Under the Carter plan, punishment is confined to withdrawing Government contracts from corporations that break the guidelines. A Federal District Court ruled this illegal, but even though a Court of Appeals later reversed the ruling, the sanctions may not be applied if a Federal agency needs the product and changing to another supplier would disrupt operations. And in any case, to restore itself into the Government's good graces, a company needs merely to pledge compliance and the threat of sanction is lifted. Sanctions would have minimal impact, of course, upon companies that do little business with Uncle Sam.

A more serious weakness in controls is that corporations can lower prices on models that don't sell, thus offsetting increases on the ones that do. They can introduce new models, offer less value while holding prices constant, export products and re-import them at higher prices, sell back and forth with subsidiaries to raise profit rates above guideline limits and so on. Under the Nixon controls these and many other similar techniques were effectively employed. It is difficult to argue with the A.F.L.-C.I.O.'s Executive Council's judgment that "the priee guideline is so flexible as to be nonexistent and is without effective enforcement."

More fundamentally objectionable are Government policies that merely endorse existing forces in the marketplace. As long as inflation is fought through higher interest rates, and businesses pass these along to consumers, inflationary pressures will intensify. So long as energy shortages are dealt with by deregulation, the cost of living will soar. So long as the medical establishment controls health care, the bills will continue to rise. In the absence of serious restructuring of energy, health, food and other key sectors that are exempted from most price control proposals, there is little hope controls will help do more than hold down wages.

Successful controls would require national unity and individual generosity. These are unlikely in a competitive market economy except in time of war. Controls today can only provide a favorable environment for the continuing struggle among individuals and groups for a bigger portion of the national income. Whoever among them cooperates rather than evades controls, loses out.

The press tends to treat labor as a greedy nuisance

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to be grudgingly tolerated. George Meany is portrayed as a gruff curmudgeon, the stereotyped cigar-smoking labor boss. In general, labor is regarded as selfish and out of date in its narrow-minded self-interest. Yet, in the present situation, labor's criticisms are on target, and the efforts to discredit the unions mask a pro-corporate stance.

There is merit in the A.F.L.-C.I.O.'s proposed excess-profits tax. Such a tax can accurately be described as a fair-price incentive tax, for in a capitalistic marketing situation, taxing away profits above a certain level in effect socializes decisions on how the funds will be spent. It brings economic democracy to allocations of funds through the investment process and provides an incentive for firms to show price restraint. Of course the firms will find other things to do with this money to avoid having it show up as taxable profits. We can expect even higher salaries and bonuses to executives, inventory buildups, speculation, diversification and other means of converting the money into deductible costs of doing business.

Although restraining profits is technically possible, it is difficult to do. The Carter Administration, rhetoric aside, has shown little interest in trying. Take the President's profit guidelines for banks—about the most cynical move yet in the Carter economic game plan to help the rich. After rejecting a profit-margins tax for commercial banks, a proposal that would have redressed the inequity of falling real wages and rising bank profits, the Administration achieved something of a coup in public relations by putting a ceiling on dividends paid to the banks' shareholders. The Administration thus encourages bankers to hold down their employees' wages, but imposes no restraint on their profits—only on dividends payments. The stockholders' equity will grow as banks add to their capital base, and the President will look good because he appears to have imposed profit guidelines on a powerful industry.

The foregoing leads to several depressing conclusions. The first is that although organized labor is clearly correct in saying that mandatory controls are better for working people than voluntary ones, even mandatory controls are no panacea. Under any sort of control program profits will be exempt, because although dividend payments can be contained, reinvestment rates will go up and capital will continue to increase its share at the expense of labor. Professional income will keep on rising and so will the cost of living. Real controls require real control over the economy—determining who should decide what is to be done with the social surplus, how goods and services are to be produced and distributed, and to what extent the different sectors of the economy will grow.

Now, after everyone else has long since concluded that the Carter wage and price guidelines were ineffective and inequitable, and at least arguably illegal as well, Secretary of the Treasury W. Michael Blumenthal has announced a major overhauling of the guidelines. A set of new recommendations will be presented to the President within the next few months. Unless progressive members of Congress, the trade union movement and working-class people in general are able to tap the widespread anti-corporate sentiment revealed in the polls, the financial community, with the support of most of the press, will get controls it can live with fairly happily.

If President Carter is forced to impose mandatory controls—either by court decisions or by public opinion, as people's anger at the anti-wage-earner bias in his present program boils over—he will probably first try selective guidelines that are harsh on wages, flexible on prices and nonexistent on profits, explaining that tough controls would interfere with the free allocation of resources. Of course they would. This is the price that must be paid for controls that work. The real questions are how much misallocation there will be, and are the disadvantages of inevitable misallocations worth the benefits of a lowering of inflation without an increase in unemployment. For working Americans the answer is, probably, yes, it is worth it. For corporations the answer is, no, it is not worth it. Guidelines with teeth are a class issue.

Alfred Kahn, the Administration's outspoken sometime inflation "czar," has called formal controls "a stinking mess." He is right. Those with economic power will seek to evade regulation, making the task of honest administration difficult indeed. Once social controls are placed on market incentives, they will have to be expanded to counter the evasion tactics business will employ. Without a national consensus that mutual sacrifice is necessary (as in wartime), such cooperation is unlikely to be sufficiently widespread for controls to work very well without the Government assuming a strong adversary relation to those powerful enough to otherwise find ways around the law. Therefore, in the absence of a strong movement for the social control of the economy, controls will have only limited success. That is why most politicians and economists prefer to continue muddling through.

Brookings Institution economist George Perry has examined the main anti-inflation remedy in their medicine bag—increasing unemployment. Perry estimates that allowing unemployment to go up an additional 1 percent would, after three years, lower inflation by only 0.7 percent. The cost would be a million jobs and $60 billion in lost output. *The Brookings Bulletin* notes: "In sum, the anti-inflation gains from restraining aggregate demand are disappointingly small."

In the face of continued inflation, mounting unemployment and the cumulative effect of declining public expenditures on the quality of life, it will become apparent to a lot of people that the free-market cure is too painful and ineffectual. The demand for positive action will become too strong for the Government to ignore.

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The lack of political parties that reflect clear ideological alternatives, and have their own newspapers, public rallies and spokesmen contributes seriously to the American electorate's attenuated ability to think historically and theoretically about alternatives. And so we are given to fads, bandwagon effects, media-manipulation and grasping at easy solutions. Yet the prevailing mood of cynicism and pessimistic "realism" leads to a dead end. The political reaction that must come will not be traditional liberalism. The politically progressive movement of the 1980s will be formed out of a different matrix. It will have to confront directly corporate power and make economic democracy, not redistribution, its central element.

As Robert Lekachman noted here ("The Polls Say: Price Controls," March 3), a majority of Americans favor price controls. Compared to the controls the corporate sector already exercises over their lives, politically implemented controls would be fairer. They are better off if the controls are out in the open, responsive to public criticism and subject to Congressional approval and direction.

There is a logic in mandatory controls that allows for—indeed requires, if they are to be successful—public, rather than private, control of investment. The middle way—indirect incentives to induce corporations to act responsibly—will not work. Either democratic control is extended or corporate dominance is perpetuated and with it continued stagflation. We are in for a long period of muddling through until this lesson is learned. □

Daisy Chain

(Continued From Front Cover)

made any impact on the American public. If the average American has heard of the daisy chain before, his knowledge probably results from an exposé done by CBS's *Sixty Minutes* which was rerun on June 24. But the joint Congressional committee probe since the program was originally shown has brought to light facts that paint a fuller picture of oil-company chicanery and benign neglect by Government agencies.

The Congressional exposé begins with a slender, 33-year-old Texas lawyer and former State Prosecutor, Joseph D. McNeff, who was assigned to the Houston office of the D.O.E. in August 1977. In Houston McNeff soon found "total chaos" in enforcement. At the time, four "reseller" cases were under investigation, and it was "almost impossible to find out what the oil companies were doing," McNeff testified.

The reseller business deserves a bit of explanation. Traditionally, the larger oilfields are connected directly to the refineries by pipelines. Before the Arab embargo of 1974, there were twelve resellers in the entire nation. They acquired the production of the smaller fields, whose output did not justify pipeline connections, and transported this oil to refineries, receiving an average of 25 to 30 cents a barrel for their services.

Now, McNeff says—and committee sources agree—there are at least 592 resellers in the nation. Their function? Primarily, shuffling papers in daisy chain operations in which oil that never moves is marked up in each "sale" and "resale" through phony paper transactions. The opportunity for this scam was created, ironically, by Federal regulations designed to keep the American consumer from being rooked. The 1973-74 regulations controlling oil prices made a distinction between "old oil" and "new oil." Old oil was from wells previously discovered and being worked before the Arab embargo, and its ceiling price was fixed at $5.25 a barrel. New oil, the product of fresh and costly drilling, was allowed to reach the OPEC market level, then some $12 a barrel. Unscrupulous and ingenious characters promptly invented the daisy chain device to circumvent the law.

Paper corporations—many with Bahamian registry, which shielded them from Federal prying—were spawned by the scores, and paper transfers were written up to create the impression that the oil moved from hand to hand until it reached its destination. Each handler, of course, was entitled to a legitimate profit markup—and so, by going through a chain of as many as ten hands in some cases, old oil that never left its original location was metamorphosed into new oil at a rip-off profit of around $7 a barrel. "This could not happen," McNeff contends—and again committee sources agree—"without the collaboration of the major oil companies. When they already possessed established, direct pipeline delivery systems, they would have to agree to let some middleman inject himself in the system."

McNeff's testimony that daisy chains are still in operation and that major oil companies are involved prompted Representative Albert Gore Jr. (D., Tenn.) to exclaim at the May 30 hearing: "I think we may have stumbled on the greatest criminal conspiracy in American history." It was a charge that was echoed by Representative John Conyers Jr. (D., Mich.), chairman of the House Subcommittee on Crime, at the June 4 hearing.

Joseph McNeff is not a popular man in Washington these days. Every effort has been made to denigrate him, to picture him as "paranoid," a man who has "gut reactions, suspicions." Such were the charges made by the F.B.I. at the June 4 hearing. But no evidence was put in the record to back them up. Furthermore, McNeff's charges were substantiated by two other D.O.E. officials: Herbert F. Buchanan Jr., deputy district manager for enforcement in the Southwestern district, and F. Edwin Hallman Jr., regional counsel for Region 4 and chief enforcement attorney for the Southwestern department. Much of McNeff's testimony dealt with the D.O.E.'s mysterious "Proj-

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ject X," the Conoco Oil Company case. Michael Barrett, counsel for Representative John D. Dingell (D., Mich.), chairman of the House Subcommittee on Energy and Power, put together this chronology on Conoco:

Felonious activity started in late 1973. A double set of books was kept. Transactions involved some $1.4 million in price write-ups. Finally, Conoco became worried. It conducted an in-house investigation, and on March 17, 1977, it conferred with a representative of the Federal Energy Administration, the D.O.E.'s predecessor. Appalled and out of his depth, the F.E.A. agent appealed to the Justice Department for help. A year passed before Justice did anything. Then, in March 1978, it sent down "the wrong file" on the case to the prosecutor. It took Justice another month to find "the right file," and then it decided it would have to redo the entire investigation. Finally, in July 1978, one day before the statute of limitations would have expired, Justice obtained an indictment, and the following month made a plea-bargaining deal with Conoco.

In his testimony, McNeff shed some interesting sidelights on this limping Conoco investigation. He had been trying to investigate a firm named Uni Oil, he said, and ran into all kinds of difficulties. The top auditor and the attorney for the region were transferred to another division. They were replaced by "an acting head auditor, who had been suspected of taking a bribe from the Summit Gas Company, and an acting head attorney who was a personal friend of Albert Alkek, a key suspect in our crude oil investigation. We were denied permission to even look at the file of Project X, the Conoco case, which was related to our investigation and contained an important deposition from Albert Alkek," McNeff recalled.

Frustrated, McNeff flew to Washington on June 5, 1978, to talk to Michael Barrett and Peter Stockton, Congressman Dingell's aides. "I made one mistake," McNeff confesses ruefully. "I told 'a friend' of mine what I was going to do, and the word got back almost before I got to Washington." The iron curtain of a jittery and, it would seem, guilty bureaucracy fell instantaneously, not just on Joe McNeff but also on Michael Barrett and Peter Stockton. Dingell's aides flew to Houston on June 14, 1978, under the misconception that, as representatives of a Congressional committee, they had the right to see the secrets in the Conoco file that had been denied to McNeff. Before they arrived in Houston, what has all the earmarks of a cover-up went into motion. As McNeff testified: "The head of the F.B.I. office in Houston called me in and berated me for going to Congress and asked what I was now going to be doing for a living." Then, McNeff said, the F.B.I. agent in charge sent some of his agents to the D.O.E. office to whisk away the file cabinet containing the information on Project X.

This happened just two hours before Barrett and Stockton reached Houston. Barrett, at the June 4 hearing, confronted three F.B.I. witnesses: Dana E. Caro, chief inspector of the planning and inspection division; Francis M. Mullen Jr., deputy assistant d rector of the criminal investigation division, and J seph E. Henehan, section chief of the white-coll crime section. Barrett made no secret of his finding a trifle odd that the Project X file, which had been the D.O.E. office for nine months, had been spirite away just as he was arriving in Houston. Well, t F.B.I. men replied, the files had been removed at ju that time because the U.S. Attorney requested the for use before the grand jury—just happened happen that way. Barrett, a sour look on his fac pointed out that the U.S. Attorney didn't take the ca to the grand jury until three weeks later.

The pressure from someone on high continued dog McNeff. He testified that on the morning of Jun 15, the day after the case of the disappearing file, was about to talk to Barrett, Stockton and some of h own associates when "the General Counsel of the D partment of Energy, Lynn Coleman, and a Depu U.S. Attorney General, identified as Mr. Keeney, r layed messages to me that under no circumstanc were we to let your [the committee's] investigators s any files or discuss any of the cases we were workin on. If we did, we would be subject to prosecution. . On June 19, when the D.O.E. Inspector General fle from Washington to Houston to talk to me, all my fil were sealed and locked up in another room. I wa barred from working on any criminal cases and A torney John Jensvold arrived from Washington to r place me." All that saved McNeff from being fire apparently, was a stiff warning by Chairman Dinge to the Department of Energy.

McNeff's account was supported by Barrett an Stockton, and stands unchallenged. Deputy Attorne General John C. Keeney was the principal Gover ment witness at the June 4 hearing, but he did n take advantage of the opportunity to deny McNeff charges. The Government appeared content to bran McNeff a "paranoid." When Representative Micha L. Synar (D., Okla.) reminded them, "We're not ju talking about McNeff, but Hallman also," there wa no reply.

Indeed, Hallman had substantiated McNeff's stor at the May 30 hearing. He testified: "I have seen case delayed for months and years. I have seen extrem problems that I in fact could not deal with, other tha to register my objections." At the same hearing Buchanan, the other D.O.E. official, added that D.O.E. auditor had told him Uni Oil ought to be in vestigated because it had just built a new refiner and paid for it in cash. This indicated to the audito that Uni must have a mysterious, unexplained cas flow somewhere.

The Dingell-Conyers probe has turned up furthe examples of this kind of pyramiding-profits scheme One such scam involved a firm called La Gloria Oi and Gas Company, which made its headquarters a P.O. Box 2521, Houston, Texas. On November 7, 1974 letters from La Gloria were sent to Frank English Pedco Oil Company, Houston; Bob Johnson, Conoc Oil Company, Houston; Lee Moore, Energy Market

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ing Company, Abilene, Texas, and Bob Whitson, Gustafson Oil Company, Wichita, Kan. The letters all read:

> Gentlemen: The following *book transfer* [italics added] has been agreed to among all companies concerned and will be effective in October business.
> Product: No. 2 fuel oil.
> Volume: 25,000 barrels.
> Transfer Sequence: La Gloria to Energy Marketing to Pedco to Gustafson to Conoco to La Gloria, Tyler, Texas.

The 25,000 barrels of oil, in other words, never left Tyler. It began with La Gloria and ended with La Gloria; but the intervening paper transfers boosted its price at every step in the chain. That it was a remunerative scam is indicated in a subsequent letter from La Gloria, notifying one of the partners in the scheme that a check was being enclosed for $32,840 as his share of the "profits."

When Deputy Attorney General Keeney and the F.B.I. witnesses were confronted with the La Gloria case, they protested that this was the first they had ever heard of it. Dingell pointed out that the case was nearly five years old and that the statute of limitations would expire in five months. Keeney alibied that the Justice Department would have had no way of knowing about the case unless it had been referred to them by D.O.E. auditors. Dingell snapped back that the committee had been told the case had been closed over the protest of D.O.E. auditors.

It was evident that the Justice Department and the F.B.I. were cozily relying on a D.O.E. watchdog that didn't watch. In the May 30 hearing, McNeff testified that, after he was taken off the cases he had been handling, he was given one minor case to process in Dallas. He looked at the files and saw "all the old familiar daisy chain people, dozens and dozens of them. A hundred chains within that one case. And these were in a file cabinet that had been put up, nobody had looked at it in a year or two." As soon as superiors discovered that McNeff had peeked, "I was immediately required to give back all the files that I was looking at."

Hallman, the D.O.E. regional counsel, followed up McNeff's testimony with the startling disclosure that, in 1975, auditors had been specifically instructed *not* to conduct criminal investigations. Hallman said:

> There is a memo on file from the then head of the enforcement arm of F.E.A. [in] which he said we will not hire criminal investigators to do criminal investigations. And that was sort of like the telegram I got once saying there would be a fire drill at headquarters. I could not believe that it had been put on paper to the extent that it had. . . .

Hallman also testified about a case involving a $150,000 payment to a former vice president of Gulf Oil. Gulf had access to a large amount of crude "of very fine quality," and another corporation wanted it. The vice president, who had the power to approve transfer of the oil, was paid $75,000 by Barko, a Bahamian corporation, 65 percent of whose stock was owned by Nepco. After the oil was diverted, the Gulf vice president resigned, was paid another $75,000—and then signed a lucrative consulting contract with the firm to which he had transferred the oil. The case was kicked around for two and a half years by D.O.E., was then sent to Justice—and the statute of limitations expired with nothing done.

Congressman Gore was incensed: "I just think it is fairly incredible. . . ," he said. "We have another case involving Mobil interrupting its traditional patterns of delivery and inserting a dealer in the chain. The pipeline is still there. The oil still moves along the same pipeline, but the paper chain now has a reseller in it, and the old oil becomes new oil."

Gore returned to the Gulf case at the June 4 hearing. Why had nothing been done? Keeney: "The case is closed as far as criminal prosecutions are concerned. It is open as far as civil action is concerned." Richard M. Fishkin, in charge of the fraud section in Justice's Criminal Division, interjected that Justice had determined "the case had no prosecutorial merit." Despite the seemingly well-established sequence that would indicate a $150,000 payoff, Fishkin contended: "We must be able to prove guilt beyond a reasonable doubt. If we can't, the case has no prosecutorial merit."

To Gore, the Conoco case was the perfect example of Justice, the Reluctant Dragon. He pointed out that Conoco had come forward of its own volition, had delivered the evidence on a silver platter—and still so much time was wasted kicking Project X around that the prosecution was within twenty-four hours of being aborted by the statute of limitations before action was taken. "Millions of dollars are involved here," Gore reminded the Government witnesses,

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"and the American people want vigorous prosecutions of these cases."

Keeney attempted to show that Justice is now vigorously prosecuting. He admitted there had been "some slippage" in early dealings with the Department of Energy, but he said that thirty-nine cases are now being actively prosecuted and another seventy are "in the pipeline" being processed by D.O.E. for possible referrals. Up until early 1978, Keeney acknowledged, there had been "some problems," but he insisted: "We now have a continuous dialogue with Department of Energy people. We think we have that problem under control."

Congressman Synar took up the questioning. He asked Keeney, "What are we talking about? Are we talking about amounts in the billions of dollars?"

> Keeney: Yes, we are.
> Synar: To the best of your knowledge, are we talking about a limited rip-off or are we talking about billions—and in all fifty states?
> Keeney: I am not a good person to answer that question. . . .
> Synar: Is it possible for this to exist without the collaboration of the major oil companies?
> Keeney: I don't think I can answer that.
> Synar [incredulously]: You can't answer that?

Chairman Conyers was disenchanted with such answers. When Keeney protested that he did not have any way of estimating the magnitude of the admitted fraud, Conyers shot back: "There isn't any other agency of Government that is sitting on top of the largest criminal conspiracy in American history, is there? . . . We are talking about an industry that is causing each and every American to pay more."

Conyers tried a new tack. Was the name John C. Sawhill familiar? he asked Keeney. The Deputy Attorney General looked puzzled, then indicated he had some "vague" recollection of having heard the name. Conyers then read from a front-page article in *The Washington Post* of December 17, 1974. Sawhill, who was then head of enforcement for F.E.A., had held a press conference in which he had announced that he was forming a special staff of thirty investigators for what he called Project Escalator. This task force was to investigate five categories of oil industry crime, including bribes, kickbacks and phony paper transactions to write up the cost of oil. Did Keeney recall that? Conyers wondered.

Keeney had no recollection. Well, Conyers pointed out, Sawhill was not just some average citizen walking in off the street, he was an important Federal official, the chief law enforcement officer of F.E.A. Wouldn't Justice have been aroused by such sweeping charges? Wouldn't it have jumped into action?

It would, said Keeney, if Sawhill had sent it anything "specific" instead of just holding a press conference to get publicity. Well, Conyers pressed, *had* Sawhill given Justice any specifics? Keeney didn't know, but Justice wouldn't have paid any attention to him unless he had. "Not even though he was the chief Federal enforcement officer in the field?" Conyers wondered again in amazement.

A significant fact went unmentioned: soon after his press conference, Sawhill was fired and Project Escalator began to run down instead of up. The daisy chains continued to operate, and the evidence remained buried, locked away in files like those that Joe McNeff had stumbled on by accident in Dallas. And the American people continued to pay—and pay.

The evidence of oil-company extortion is clear. A year and a half ago, my own Congressman, James J. Howard (D., N.J.), tried to get the Department of Energy to explain why heating oil, traditionally one of the cheapest products of the refineries, was priced higher than gasoline. He got a bureaucratic runaround, as I explained in the first of my series of articles in *The Nation* ("Fuel Oil: The Rip-Off Runaround," July 22-29, 1978), and concluded that "nothing is triggered to help the consumers." (Representative Howard on June 13 asked President Carter to name a special prosecutor to investigate oil fraud charges. He said no Federal agency had investigated fully and that the issue should not be left in the hands of the D.O.E.)

Since that time oil companies, acting in unison (a clear indication of collusion), have hiked the prices of home-heating oil 1 cent a gallon or more every few weeks in September, October, November and December 1978—months before the Iranian upheaval in January. The result in my area of New Jersey was that fuel oil prices jumped from 49.5 cents a gallon a year ago to 69.9 cents today—an escalation of 41 percent on top of all the highway robbery of the past. Gasoline, especially after the exaggerated Iranian "shortfall," zoomed, too. Regular gas, which was priced at 59.9 cents in many places last December, is now at least 84.9 cents, if you can find it at that price.

Oil company fat cats, now that President Carter has begun the decontrol for which they have been pressuring, predict an even worse future: 80 cent to $1.20 fuel oil and $1.45 to $2 gasoline. The president of one of the major oil companies recently said blandly in a television interview that only when prices reach these levels will it be worth the oil companies' while to go out and hunt for more oil.

So the oil companies sow; so the nation reaps. Over it all, oblivious to the worst implications, sits the populist from Plains, Ga. He continues to urge Americans to "sacrifice" and "to work together to solve our problems," whitewashing with his saccharine piety a crisis that is essentially criminal and evil. Even Senator Howard Baker Jr. of Tennessee, the Republican minority leader and son-in-law of the late Everett McKinley Dirksen, has a more acute perception of reality. In a recent television appearance, he warned the oil moguls that their image is so tarnished they may face divestiture or even nationalization if they don't shape up. Must we look, then, to Howard Baker as the oracle of our times? Have things reached such a pass? You can bet your empty gas tank they have! □

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BOOKS & THE ARTS.

The Necessary Miracle

KURT VONNEGUT

The following speech was delivered this spring at Mark Twain's house in Hartford.

To every American writer this is a haunted house. My hair may turn white before this very short speech is done.

I now quote a previous owner of this house: "When I find a well-drawn character in fiction or biography, I generally take a warm personal interest in him, for the reason that I have known him before—met him on the river."

I submit to you that this is a profoundly Christian statement, an echo of the Beatitudes. It is constructed, as many jokes are, incidentally, with a disarmingly pedestrian beginning and an unexpectedly provoking conclusion.

I will repeat it, for we are surely here to repeat ourselves. Lovers do almost nothing but repeat themselves.

"When I find a well-drawn character in fiction or biography, I generally take a warm personal interest in him, for the reason that I have known him before—met him on the river."

Three words, in my opinion, make this a holy joke. They are "warm" and "personal" and "river." The river, of course, is life—and not just to river pilots but even to desert people, to people who have never even seen water in that long and narrow form. Mark Twain is saying what Christ said in so many ways: that he could not help loving anyone in the midst of life.

I am of course a skeptic about the divinity of Christ and a scorner of the notion that there is a God who cares how we are or what we do. I was raised this way—in the midst of what provincial Easterners imagine to be a Bible Belt. I was confirmed in my skepticism by Mark Twain during my formative years, and by some other good people, too. I have since bequeathed this lack of faith and my love for the body of literature which supports it to my children.

I am moved on this occasion to put into a few words the ideal my parents and Twain and the rest held before me, and which I have now passed on. The ideal, achieved by few, is this: "Live so that you can say to God on Judgment Day, 'I was a very good person, even though I did not believe in You.'" The word "God," incidentally, is capitalized throughout this speech, as are all pronouns referring to Him.

We religious skeptics would like to swagger some in Heaven, saying to others who spent a lot of time quaking in churches down here, "I was never worried about pleasing or angering God—never took Him into my calculations at all."

Religious skeptics often become very bitter toward the end, as did Mark Twain. I do not propose to guess now as to why he became so bitter. I know why I will become bitter. I will finally realize that I have had it right all along: that I will not see God, that there is no Heaven or Judgment Day.

I have used the word "calculations." It is a relative of that elegant Missouri verb, "to calculate." In Twain's time, and on the frontier, a person who calculated this or that was asking that his lies be respected, since they had been arrived at by means of arithmetic. He wanted you to acknowledge that the arithmetic, the logic of his lies, was sound.

I know a rowdy joke which is not fit to tell in mixed company in a Victorian home like this one. I can reveal the final line of it, however, without giving offense. This is it: "Keep your hat on. We may wind up miles from here." Any writer beginning a story might well say that to himself: "Keep your hat on. We may wind up miles from here."

This is the secret of good storytelling: to lie, but to keep the arithmetic sound. A storyteller, like any other sort of enthusiastic liar, is on an unpredictable adventure. His initial lie, his premise, will suggest many new lies of its own. The storyteller must choose among them, seeking those which are most believable, which keep the arithmetic sound. Thus does a story generate itself.

The wildest adventure with storytelling, with Missouri calculation, of which I know is *A Connecticut Yankee in King Arthur's Court*. It was written in this sacredly absurd monument—as were *The Adventures of Tom Sawyer*, *A Tramp Abroad*, *The Prince and the Pauper*, *Life on the Mississippi*, from which I have quoted, and the world masterpiece, *Huckleberry Finn*. Twain's most productive years were spent here—from the time he was 39 until he was my age, which is 56. He was my age when he left here to live in Europe and Redding and New York, his greatest work behind him.

That is how far down the river of life he was when he left here. He could not afford to live here anymore. He was very bad at business.

About *A Connecticut Yankee*: its premise, its first lie, seemed to promise a lark. What could be more comical than sending back into the Dark Ages a late nineteenth-century optimist and technocrat? Such a premise was surely the key to a treasure chest of screamingly funny jokes and situations. Mark Twain would have been wise to say to himself as he picked up that glittering key, "Keep your hat on. We may wind up miles from here."

I will refresh your memories as to where he wound up, with or without his hat. The Yankee and his little band of electricians and mechanics and what-have-you are being attacked by thousands of English warriors armed with swords and spears and axes. The Yankee has fortified his position with a series of electric fences and a moat. He also has several precursors to modern machine guns, which are Gatling guns.

Comically enough, thousands of early attackers have already been electrocuted. Ten thousand of the greatest knights in England have been held in reserve. Now they come. I quote, and I invite you to chuckle along with me as I read:

"The thirteen gatlings began to vomit death into the fated ten thousand. They halted, they stood their ground a moment against that withering deluge of fire, and then they broke, faced about, and swept toward the ditch like chaff before a gale. A full fourth part of their force never reached the top of the lofty embankment; the three-fourths reached it and plunged over—to death by drowning.

"Within ten short minutes after we had opened fire, armed resistance was totally annihilated, the campaign was ended, we fifty-four were masters of England! Twenty-five thousand men lay dead around us."

End quote.

What a funny ending.

Mark Twain died in 1910, at the age of 75 and four years before the start of World War I. I have heard it said that

Kurt Vonnegut's new novel, Jailbird (Delacorte), will appear this fall.

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he predicted that war and all the wars after that in *A Connecticut Yankee*. It was not Twain who did that. It was his premise.

How appalled this entertainer must have been to have his innocent joking about technology and superstition lead him inexorably to such a ghastly end. Suddenly and horrifyingly, what had seemed so clear throughout the book was not clear at all—who was good, who was bad, who was wise, who was foolish. I ask you: "Who was most crazed by superstition and bloodlust, the men with the swords or the men with the Gatling guns?"

And I suggest to you that the fatal premise of *A Connecticut Yankee* remains a chief premise of Western civilization, and increasingly of world civilization, to wit: the sanest, most likable persons, employing superior technology, will enforce sanity throughout the world.

Shall I read the ending of *A Connecticut Yankee* to you yet again?

No need.

To return to mere storytelling, which never harmed anyone: it is the premise which shapes each story, yes, but the author must furnish the language and the mood.

It seems clear to me, as an American writing 100 years after this house was built, that we would not be known as a nation with a supple, amusing and often beautiful language of our own, if it were not for the genius of Mark Twain. Only a genius could have misrepresented our speech and our wittiness and our common sense and our common decency so handsomely to ourselves and the outside world.

He himself was the most enchanting American at the heart of each of his tales. We can forgive this easily, for he managed to imply that the reader was enough like him to be his brother. He did this most strikingly in the *personae* of the young riverboat pilot and Huckleberry Finn. He did this so well that the newest arrival to these shores, very likely a Vietnamese refugee, can, by reading him, begin to imagine that he has some of the idiosyncratically American charm of Mark Twain.

This is a miracle. There is a name for such miracles, which is "myths."

Imagine, if you will, the opinion we would now hold of ourselves and the opinions others would hold of us, if it were not for the myths about us created by Mark Twain. You can then begin to calculate our debt to this one man.

One man. Just one man.

I named my first-born son after him.

I thank you for your attention. □

Novel and Novella

Leslie Epstein sent us the following letter stating his reasons for not doing a full-length review of William Styron's Sophie's Choice *(Random House. 384 pp. $12.95). Since the letter contains a useful commentary on the book, we run it with Mr. Epstein's permission.*

LESLIE EPSTEIN

Dear Elizabeth,

This will not be an easy letter to write, but I wanted to do it as soon as I could, in case my backing out of the Styron review should leave you in the lurch. What has happened, as you may know, is a month of utter chaos at Boston University. A strike, then two strikes. They have just ended, and now we have to set about picking up the pieces. Suddenly my secretary announces she is going straight from the picket lines to Goddard College, to get her degree. This means I am going to have to run the entire admissions process to our creative writing program myself. In brief, I don't know how I'm going to meet your deadline.

With more truth: even if the pressure of time were not upon me, I do not believe I would want to write on *Sophie's Choice*. To begin with, I approached the novel with a marked degree of hostility, based mostly on my reaction to Styron's two-year-old article in *The New York Review of Books*—an article lecturing the Jews on the dangers of thinking they had been the exclusive victims of the death camps. Something in the tone of that annoyed me then, and when I realized he was writing a novel in part about the suffering of Poles at Auschwitz, I grew wild with the thought he was paving the way for the reception of his book (among a literary world which that same book seems to think of as itself exclusively Jewish) over the bodies of our dead.

It is tribute enough to *Sophie's Choice* that those suspicions pretty much dropped away. All that remains is a certain wonder about Styron's obsessive grumblings about Jewish writers and Jewish culture—at one point, interestingly, he compares Poland to the American South, which of course means that for him the Jews have taken on the same mythic force as the blacks of his youth (and might well react with the same anger to this book as those blacks did to *Nat Turner*)—along with a feeling of disbelief toward the Polish aspects of the book, typified by that underground leader who goes about slitting the throats of his fellow countrymen who molest the fugitive Jews. Such a thing never happened, or if it did, it is such an exception as to be nearly pathologically grotesque. In a novel that purports to be both biography and autobiography, such "exceptions" are more than ordinarily troublesome.

Moreover, and on strictly artistic grounds, the Polish sections suffer from what afflicts virtually all Holocaust literature—an inability to leave anything out. Thus we run the usual gamut, from the fascist father to the daring resistance leader, from death camp scenes to the darling daughter with her unconvincing flute. (The treatment of music generally is one of the weakest elements in the novel. Composers are named in the most old-fashioned way, in a Hollywood way, really, for the automatic response. Or, should that response be in doubt, it's pumped up pneumatically: to wit, "Just as she reached the landing she heard Brahms's *Alto Rhapsody* on the phonograph, Marian Anderson's flowering dark exultancy, triumph wrested from eons of despair." There's a fair amount of that shade of purple—shades of *Lie Down in Darkness*—throughout this book, alas.)

This inability to leave things out, to be content with the unexplained, shows itself most seriously, and surprisingly, in the moment that Sophie makes her choice. That this is an old story that many must have come across before would not matter, had it not gone by here so quickly, with such scanty preparation, though with plentiful philosophical trimmings. There is such slight dramatic impact that I'd be willing to bet that most readers come away from the novel thinking that Sophie's choice is between Nathan, her American lover, and Styron, the narrator, rather than between her own two children. More crucially, once Sophie is defined by this moment in her life, the strangeness and mysteriousness lift irrevocably from her character.

Leslie Epstein is the author of King of the Jews *(Coward, McCann Geoghegan).*

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On the other hand, the scenes between Sophie and Höss, the Auschwitz commander, are convincing and never forced. Indeed, whenever Styron focuses upon *relationships*, he writes better than he ever has. Perhaps he should have risked the melodrama of having Höss himself offer Sophie the choice, if only to give the scene the kind of emotional life that is smothered by the disquisition on evil that accompanies the obscure officer who in fact poses her the dilemma. Did you know, Elizabeth, that once a similar choice was offered to a Jewess? She was told that her child's life would be spared if she guessed which of her S.S. man's eyes was the glass one. "The left," she immediately replied. "How did you know?" Franz or Hans or Fritz demanded. Said the poor woman, "Because it has more life."

The finest relationship in the book—really it is the book itself—is that between Nathan and Sophie in New York. Their story, so tortured, so destructive, so desperate, is as legendlike and doomstruck in its way as the love-death of Tristan and Isolde. At least, it was until Styron's compulsion to explain goes to work here, too. I am thinking of the way in which Nathan is demystified by the revelations about his research, his job, his pathology, his blurry past. In some final sense this remarkable man—one of the strongest and strangest of our recent fiction—is patronized. I am left, then, with the impression that if Styron had butted out—had made himself a Nick, as Fitzgerald did in *Gatsby*, instead of (the adolescent sex scenes, the masturbation, and the obsessive self-analysis) a Protestant Roth; had had the negative capability to leave his characters half-wrapped in shadows instead of exposed in narrow light—then *Sophie's Choice* might have become one of the finest novellas in our literature. As it is, I read it eagerly—always looking forward to the next night, my drink, my own phonograph music, and the fifty or sixty or even a hundred pages before me.

I see that in rejecting this review—remember, I never promised you I'd do it, only that I wouldn't do it for anybody else (and *New York* and *Inquiry* have since asked)—I am actually starting to write one. I'll stop. If I could rip apart a bloated and undeserved reputation, if I could help a neglected writer reach readers who would otherwise miss him, then naturally I'd do the review, whatever my schedule or inclinations. But the fact is, apart from foolish psychoanalytical speculations about Styron's anxiety toward blacks and Jews, I have very little more to say than I already have. It is a good big book that might have been a great small one. For all that, *Sophie's Choice* is probably Styron's best piece of writing (I haven't read *The Long March*, which many admire), and that, in a distinguished career, is a lot. It is enough. □

Junk Food

KEITH OPDAHL

LEGENDS OF THE FALL. *By Jim Harrison. Delacorte Press. 276 pp. $10.95.*

It's as though William Butler Yeats had written a scenario for Sam Peckinpah. Or as though James Dickey had done a Western—though Dickey wraps the violence in *Deliverance* in a context that attempts to explain and redeem it, while Jim Harrison gives the pure, raw, *macho* daydream. Harrison's three long stories are full of silent men and lovely women who desire to be ravaged. The bad guys are nightmare figures with names like "Slats" who just won't listen to reason. You have to zap them hard.

What is it about these purely evil characters? Do we turn to them because of their simplicity? Some atavistic belief in evil? In Dickey's novel the middle-class men are forced to become violent, and the memory of their classy cars and tiled kitchens makes the brutal state of nature shocking. So *this* is what happens when you drop out of Rotary! But in Harrison such contrasts melt away. The violence is a norm, a daydream, a fantasy of male power that we could call adolescent if it weren't so clearly middle-aged. The 40-year-old with his waning powers must be as anxious as the 16-year-old discovering them. Both somehow require the sexuality of gunplay—a weapon, invincible, squirting bullets at all who would do harm. "He lifted the Purdey twelve-gauge shotgun along his leg up through the parting in the robe and blew the two Irishmen into eternity."

And yet Harrison's style can be pretty decent, as you would expect from a man who has published four volumes of poetry. When three brothers ride off to enlist in World War I, for example, Harrison sets the scene.

Keith Opdahl is the author of The Novels of Saul Bellow.

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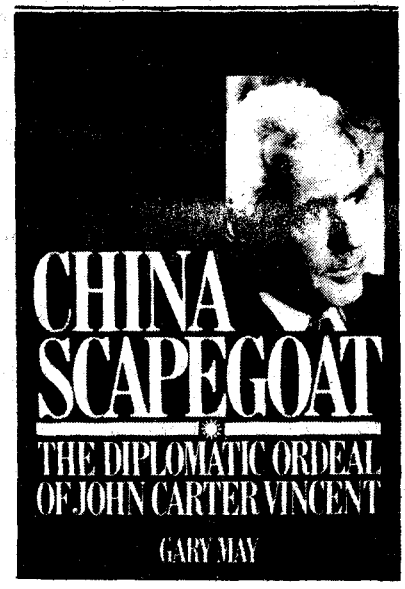

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> By first light the wind blew hard against the yellowed aspens, the leaves skittering across the high pasture and burying themselves in a draw. When they forded their first river the leaves of the cottonwoods stripped by the wind caught in the eddies, pasting themselves against the rocks.

Harrison sees the weather and the countryside clearly. He too often doesn't see the characters, and particularly the women. In the first story, "Revenge," the wife who seduced Cochran is vague, which is unforgivable since it is love for her that drives the protagonist. Or is it? You would think, in any case, that Harrison's preference for event over character would make him careful in his plots, but not so. Cochran knows that the husband of his lover is a Mexican millionaire, for example, with gangster connections and the nickname "Shark" —not exactly the kind of man you would want to cuckold. But when the husband sends him an envelope with a one-way ticket to Madrid, Cochran is mystified. One way? Why one way? And why all this cash? "He examined the ticket several times thinking the return might have been left out by mistake." And when he is beaten up during the weekend tryst, Cochran takes it poorly. The husband has overreacted, he feels, and the wife must certainly agree. She has her lips sliced by a razor and is forced to serve the troops in a Mexican whorehouse for a month. These men!

The best of the stories, "The Man Who Gave Up His Name," suggests that Harrison has better fiction within him. The protagonist is a second-generation Norwegian named Nordstrom who is emotionally reticent. He is also an American who has found our dream empty, and a somewhat clumsy man who is too sincere, too diligent not to act once he has seen through the sham. Since it is his unimaginative diligence that first traps him in the American culture (working for an oil company) and then drives him—literal-minded maniac that he is—to seek something better, Nordstrom is a moving figure. At 40, divorced, he dances alone in his apartment, trying to get in touch with himself. A cliché? Perhaps, though Harrison has caught something both recognizable and fresh. Nordstrom is too innocent, too efficient, not to seek health.

At the very least, he points to a peculiar result of our melting pot, for when the stiff-lipped children of Northern European immigrants see a Latin mama hugging and crying and loving in the movies, they don't shrug it off, regretting their ancestors didn't use more garlic. They feel cold, deprived, emotionally stunted, or so Harrison suggests. And in this story they *do* something about it, for Harrison finds his point of departure in the emotional sterility that so many other writers take as their shaping revelation. Attempting to return to life, Nordstrom tries the healing hobby—a sailboat, skiing, some tennis—and then quits his job to move from California to Boston to be near his grown daughter. He dances. He eats in a Jewish delicatessen, where he has fun filling in for the short-order cook. He keeps a diary and develops his cooking skills and takes his emotional temperature. He worries about his sex life, and if Harrison isn't totally successful, turning to another gangster who must be tossed out the window, he finds a story that works. For when Nordstrom abandons his Boston life to become a cook in a small Florida restaurant, we do not wonder when he will return North. He has found the kind of strenuous, simple life he needs. We note with satisfaction that he also finds someone with whom to dance—strangers, acquaintances. But someone.

This too is fantasy, of course, but it is honest and revealing. Harrison's style is right, too, for it consists mostly of summary, as though we looked from a distance, with a tone that catches the large perspective and mute struggle of the character himself.

But this style cannot redeem the title story, which *Esquire* published with much hoopla, for it is the crudest fantasy of the three, and makes one wonder about the state of the American male. We have the Montana ranch with lots of blue weather over distant hills. We have the family group and a sacred place within a canyon. We have such loyal family retainers as the Indian, One Stab, who likes to do savage dances. But most of all, we have the cold fury of a romantically wronged man, Tristan, the wild brother in the tradition of Faulkner's Sutpen and the Public Broadcasting System's Poldark. When he was 12, Tristan demanded that his mother return to the ranch from Boston, where she preferred to spend the winters. When she refused, Tristan cursed God and became, Harrison says, an *unbeliever*. It is our greatest myth—"It's all Mom's fault."

But it is really the death of his brother in World War I and then of his true love by a stray bullet that Tristan cannot forgive. He throws away his life in angry, brooding, romantic adventure on the sea and as a bootlegger. Never mind that he hurts other people far more than life hurts him. He is our protagonist, and we are to see him as sensitive rather than as a sorehead. When he lays another brother's pathetically insane wife, whom he had abandoned earlier—the point of his name—we are to understand that he is driven to it by his unhappiness.

Has Harrison seen too many gangster movies, too many Westerns, too much TV? He seems to *believe* all this, though I would guess that he is either doing movie scenarios, attempting to tap into the great American Dream Machine—and after starving through four volumes of poetry he might well have earned the right—or has trained himself as a poet to be too honest, too direct to soften these American fantasies. They are not after all so very different from Grimm's fairy tales. The bad guy must be destroyed. The good guy provides a catharsis of self-pity and resentment.

Every once in a while someone like Calvin Trillin confesses his hunger for Twinkies, as though his body had a real need for all those chemicals. If our culture has a similar need for junk lit—the so-called "romantic" fiction of lonely people engaged in preposterous and violent pranks, usually in picturesque places—why not have our poets write it? Give them a monopoly, if we cannot stamp it out. Enrich our endowment of the arts. In the hands of Jim Harrison these fantasies are so open we can indeed see what we are or what we dream. At the very least, such clumsy plots and vacant characters, such ill concealed self-pity and anger, such male posturing and fearful fantasies would find expression in precise language. □

Hunger and The Artist

ALAN CHEUSE

LAND WITHOUT SHADOW. *By Michael Mewshaw. Doubleday & Company. 224 pp. $8.95.*

Qu'est-ce que c'est la littérature? More than thirty years have passed since Sartre questioned the value of Western writing in the face of African and

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Asian poverty and malnourishment. He oped to create a kind of moral interro-gation of style and stylistics which hen—and now—not every well-fed Western writer could easily endure.

The question might at first seem too eavy a burden for Michael Mewshaw's eatly crafted new novel to bear. The ale opens without pretension or fan-are in a barren modern house on a hill-ide on the Riviera. An American ainter living alone after a disastrous ivorce, Cordell throws in with a movie ompany under the direction of his old riend, Tucker, travels to a central Af-ican nation, and discovers how much f the country's purported reality is il-usory and how unreal his own life eems as a consequence of this discov-ry.

Tucker convinces Cordell to sign on s art director in the wake of an unex-ected resignation. He flies him along with the rest of the movie company—which Mewshaw depicts with a deft combination of acid and color—to "Mal-teta" where they are to film a vapid story about two Peace Corps members who fall in love against a barren Third World desert backdrop. But even be-fore their plane lands, the backdrop comes alive as they fly into an airfield ambush staged by local guerrillas.

The quixotic venture into the movie business which Cordell had thought might ease his painful solitude and swell his empty bank account quickly becomes an exercise filled with ethical as well as physical dangers. At night, while making love to the female second lead, the former painter hears from the comfort of his bed in the lavish (but oddly dysfunctional) oasis hotel the in-escapable sounds of "metallic clashes, curses, screams" from the area of the hotel's garbage cans, and then "a foot race to the wall." The large crew of handsome weight-conscious Americans (and some legalistic French camera-men who insist on the daily hot lunch referred to in their contracts) have set up shop in the midst of an appalling na-tional disaster.

Mewshaw skillfully narrates Cor-dell's discovery of the widespread Mal-itetan famine, the secret life of the young local film maker whom the minister of "culture" has appointed as the company's guide, the harrowing guerrilla struggle and the cover-up of the famine that includes the nation's highest officials, the American Embas-sy's finest, and Cordell's old friend and now boss, Tucker, the director himself. In counterpoint to the growing picture of intrigue and disillusionment, the film company proceeds with its busi-ness (and its eating habits, which be-come quite upsetting when juxtaposed with nocturnal raids upon its table leavings by the hungry denizens of the surrounding desert).

As the best of his previous novels (*The Toll*, 1973, and *Earthly Bread*, 1976) demonstrate, Mewshaw, unlike many of our contemporaries, focuses as much on problems of conscience as on prob-lems of consciousness. In this respect, he places himself squarely in the tradi-tion of Graham Greene, whom he greatly admires. Much to his credit, he attempts to work in the spirit rather than merely the letter of Greene's suc-cesses, creating first-rate adventure narrative about believable characters set in an atmosphere of moral rigor.

A quiet book that never calls atten-tion to its own style, *Land Without Shadow* manages to hoist large themes on its unassuming shoulders. What is literature? Mewshaw's novel, in its own unpretentious way, brings this power-ful question to mind again. □

Alan Cheuse writes about contemporary literature for several magazines and has fiction forthcoming in The New Yorker.

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The Family Hour

KEVIN McAULIFFE

SEE NO EVIL: The Backstage Battle Over Sex and Violence in Television. *By Geoffrey Cowan. Simon & Schuster. 323 pp. $10.95.*

"Television programming is a highly competitive game," writes Geoffrey Cowan, "played in large measure by essentially insecure executives who are obliged to be more concerned about ratings and sales than about television's true potential as an entertainment and information medium." Moreover, "crass" as it is, "that is the commercial television system, and it isn't likely to change." Cowan should know—the activist-lawyer son of a former CBS-TV president, he has taught communications law at the University of California at Los Angeles and, in 1975-76, successfully sued the television networks and the Federal Communications Commission on behalf of the medium's writers, actors and directors over something called the "Family Hour."

What was the "Family Hour," exactly? Well, to a startling degree, as Cowan shows, even the people who hatched it and foisted it upon television's creative community and upon the American public didn't really know. Arthur Taylor, then CBS network president and heir apparent to William Paley, had fairly liberal reasons for pushing "it"—and pushing others at the network (and its competitors) into going along. Richard Wiley, F.C.C. chairman, had free-market reasons for offering the networks the opportunity to adopt it—before, as he made clear to them, they faced stiffer regulation or outraged Congressional action. And both had special interest groups to contend with in the form of disaffected Bible Belt affiliates, posturing Congressional committees, clever litigants seeking "fortune cookie" damages for specific programs and organized pro-censorship groups, all loosely committed to going after "sex and violence" on television, the definitions of "sex" and "violence" being left conveniently open-ended.

Thus, the "Family Hour," a form of benign self-regulation agreed to by CBS, NBC and ABC in early 1975 in the form of an amendment to the National Association of Broadcasters code. Its purpose: to keep the hours of 7 P.M. to 9 P.M., Eastern time, devoid of any programming except what "the family" could watch together without "embarrassment." Its inevitable result: to censor even more and render more mindless the entertainment fare of an industry which, almost from its infancy, had made itself a monument to the pursuit of profits over quality.

Cowan's book is rife with inside accounts of the meetings in New York and Washington where the bureaucratic momentum for the idea became irresistible; with the unintentionally funny and pathetic efforts of network personnel to define and enforce the new policy (particularly disgusting are the efforts by the networks to turn one another in to the N.A.B. for "Family Hour" violations), and with accounts of screaming fits thrown by the artists whose shows were being censored—the movements of Norman Lear, Cowan's friend and client, are a constant focal point—until they made the unlikely decision to resist with a law suit.

The long shot paid off; for once, the monster had overextended itself and could be beaten—but only, as Cowan goes on to lament in his downbeat, slightly disoriented finale, in one lone skirmish: the networks simply didn't appeal the Los Angeles Federal District Court ruling against them, and let "Family Hour" stay on as a dead letter without enforcing it. And as the characters change at book's end—Wiley replaced by a liberal at F.C.C., Taylor bounced unceremoniously at CBS—along comes Fred Silverman, dispensing *Soap, Three's Company* and kiddie porn, some of the worst, most salacious TV programming ever aired, and all of it deemed "acceptable" for viewing.

Cowan, a Carter appointee to Public Broadcasting's corporate board, has taken aim on a moving target in this book. No one work, not even one narrowly focused on a specific incident—as this one is—can do justice to a topic as deep as the disturbing history of broadcasting (and broadcast regulation) in this country. But Cowan has made an estimable effort, and he has covered his chosen ground well. □

Kevin McAuliffe is the author of The Great American Newspaper: The Rise and Fall of The Village Voice *(Scribner's).*

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ART

LAWRENCE ALLOWAY

Ward's Island is a strange landscape. There are views of Manhattan's high urban style across the East River, but in the foreground there are only rank trees and bushes. The colossal piers of the lofty Triborough Bridge stride Piranesi-like across it toward the distant center, and airplanes cross the island on their approach paths to La Guardia Airport. The big institutional buildings of the state's Manhattan Psychiatric Center, oppressive when seen clear, are reasonably subdued by the plentiful shaggy plantings. It is full of areas in suspense, waiting to be used, roads that trail off, traffic barriers that have been in place for years, link fences, fields going to seed: the edge of a city.

The grounds of the Psychiatric Center are covered with outdoor sculpture now: on the river bank, under the bridge, on the site of a razed house, on lawns, among trees. Some of the sculptures close vistas, others are for circling around, some for passing by in corridorlike spaces. The total effect is confusing and encouraging: confusing because the siting and coordination seem to be done on a purely ad hoc basis with no governing plan; encouraging because it reveals that numerous artists are able to work inventively on a large scale. The grounds are open to the public from 10:00 A.M. to sundown seven days a week. To get there, take the M35 bus to Ward's Island from the northwest corner of Lexington and 125th Street, or by car take the Triborough Bridge and follow the signs to Randall's Island and Ward's Island.

I went there on Memorial Day. My only problem was that I could not identify all of the pieces, or even find some of them. The official map is terrible and almost none of the works are labeled. It is hoped that the garden will function as a sculpture library, showing works that can be borrowed or purchased for other sites, such as parks, schools, other hospitals. If it is to work in this way, however, available information must be expanded and improved, not by the Psychiatric Center, which obviously has other things to do, but by the artist organizations. Otherwise, prospective clients will find themselves in my position. There is an interesting wooden sculpture set in the outline of a frame

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house which implies greater depth than is actually there. I liked it but could not find it on the guide map and there was no artist's name on it: some library.

Two groups are involved in the outdoor sculpture. Artists Representing Environmental Art (AREA) and the Organization of Independent Artists (O.I.A.), as well as a few unaffiliated artists. AREA, which seems to have come into existence in response to the center's hospitality, concentrates largely on the waterfront facing New York City. New works here include "Hell's Gate Maze," by Carolee Thea, a low-lying ring of wooden pilings and rock, and "Angellipse," by Carl Andre, outlined in bales of straw, both clearly visible across the water from the East River Drive. These are good examples of naturalism of materials, that is to say, the use of materials conformable to the site rather than in contrast to it. The O.I.A. occupies the rest of the grounds with a broad range of works: geometric iron pieces, some painted, some rusted, and wood pieces, some architecturally carpentered (Peter Dudek), others using trees (Arthur Weyhe) and branches (Harriet Feigenbaum). The wooden pieces are often the best: they can be larger in the landscape than expensive metal hardware, but they are also freer of reminiscences of other artists.

Few of the works have been sited as well as Audrey Hemenway's "Bridge Web," a large rigging of steel cables and wooden framework, in which symmetry and dissolving forms pull at each other. It is set very close to the trees on one side of a field, open to the profusion of natural growth; another view shows its tense structure in complicity with the arch of the Triborough Bridge in the distance. Another piece that occupies its site well is Elizabeth Egbert's fanned-out structure of wooden slats that coils into itself and unfurls amply as you circle it. Mary Ann Unger has a rich piece, a 14-foot circle of rounded, slightly tapering forms, each one separate but similar; called "The Well," it suggests a huddle of animals, but the contours are as firm as urns, and though iron, they have the dusty radiance of terra cotta. Another exception to the often desultory placing is a work by Brendon Haugh: he cleared a long band of grass and placed in it a row of fieldstone pieces leading toward the bright blue pier of the footbridge that joins the island to the mainland at 103rd Street. Stones and iron are linked not only by the work's orientation but by the fact that the stones are large in our foreground and the larger bridge is distant, so their perceptual areas collapse into one another.

Who is the audience of the sculptur garden? I doubt that it means much a art to the patients, though the work o installation must be diverting and, a evidence of outside interest in thei lives, the show may be reassuring. I may also contribute to the morale of th staff who have a hard job in an isolate place that resembles a prison. The exhi bition increases the number of uses c the island and gives artists the chanc to work on a large scale for which ther are few urban opportunities. It is a imaginative deployment of the exter sive, neglected grounds of the cente that the director, Dr. Gabriel Koz, ha initiated. The center contributes th land and aid from its constructio crew; in return, the artists help to sc cialize the place. Ward's Island has be come an impressive addition to th growing network of alternative space for the exhibition of art. Most of th works will stay in place at least throug November, but in any case it is an ongc ing program and can be visited al summer. [

STEPPING ASIDE

These five Druid cattle
left bounding in a Yorkshire field
—longhorned, shagged,
unreasonable, have outlived
their religion, long divisions
not coming out even, or seeds.
They've learned to start over
without us.

Alexander's captains,
backing away from Taxila,
found Neanderthals on the banks
of the Tomeros who slit fish
with long fingernails, gaped
at retreating Macedonians—
that spectacle of history
they turned their backs on.

They're here off Hokkaido now,
bunched in shallow water, beetling
over their fishnets. They
cherish bears for no good reason
and forget, like us, how they
got this far. They will survive,
knowing there are ways
you can outlast anything.

Kathy Callaway

INDIGENOUS MUSIC

NAT HENTOFF

He loved baseball and he de tested certain critics, on of whom he belted in th chops for having writte that he was obsolete. His main passion though, was the cornet. His name wa Francis "Muggsy" Spanier and he grev up in Chicago when King Oliver an Louis Armstrong were doing thing with horns that no one had ever though possible. The youngster would spen whole nights at the Lincoln Gardens o the South Side, listening so hard that h got to know every phrase, every breal they played. Louis called him "Kic Muggsy," and one glorious night, King Oliver let Spanier sit in. The number Spanier never could forget, was Oli ver's "Bugle Blues."

Muggsy went on to play with a lot o earnest but not particularly incandes cent bands, and there were seven years with Ted Lewis during which Spanie got to play some jazz when Lewis wasn't promenading in front of the band, cracking exceedingly brittle jokes

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and waving his clarinet (which was better than his playing the clarinet). He also spent a couple of years with Ben Pollack, and then fell apart. Almost literally. During Muggsy's time at the Touro Infirmary in New Orleans, the jazz community kept preparing for the wake. But he wasn't done yet.

In 1939, soon after his recovery, Muggsy organized a small combo that lasted less than a year but left behind sixteen sides on Bluebird that are among the utterly indispensable jazz recordings. They are occasionally reissued, and then disappear because the audience for this biting, driving kind of "Chicago-style"-cum-swing music is hardly large. Now, however, with an apparent appetite for past jazz triumphs being manifested by the growing number of younger listeners, nine of those tracks are out again as part of the Quintessence Jazz Series, a division of Pickwick International (7500 Excelsior Boulevard, Minneapolis, Minn. 55426).

Muggsy called it the Ragtime Band, and among his colleagues were Rod Cless, a tart-toned, penetrating clarinetist; the cosmopolitan Joe Bushkin on piano; and a round, bluff New Orleans trombonist, George Brunies, who was as subtle as a booking agent but had the heart of a pride of lions. It was Muggsy, of course, who gave the band its identity. He played with a crackling intensity, emulating the disciplined passion of Oliver and Armstrong and, like them, he also had a highly developed dramatic sense. Muggsy's solos were incisively phrased, shrewdly paced, and always mindful of the expressive value of careful dynamics.

Somehow Spanier pulled this band of rough-hewn journeymen together into one of the most thoroughly *together* ensembles in jazz history. Although the effect was marvelously freewheeling, the ensemble passages were finely crafted for maximally explosive climaxes, and the collective breaks were stunning. They played tunes long familiar to us hard jazz nuts and made them sound astoundingly fresh. "At The Jazz Band Ball," "Eccentric," "That Da Da Strain" and a joyously nasty "Sister Kate"—with vocal by Brunies—that we second-lining kids memorized so that we could regale ourselves with its bumptious strains at the most unlikely places and times.

All those performances are in this set, along with a Spanier ode to his own resiliency, a blues—"Relaxin' at the Touro." Also testifying to the nonpareil gusto and hot spice of this band is "Bluin' the Blues" and "Mandy, Make Up Your Mind."

Muggsy later made other notable recordings, particularly a session with Sidney Bechet, before he died in 1967. But the sides with the Ragtime Band were the apotheosis of his jazz life. Everything came together in that year—the apprenticeship as a boy devouring the sounds of King Oliver and Louis Armstrong; the long traveling with orchestras that were as close to a stifling corporate experience as Muggsy ever had, and the dreams of what could be if ever he had a shot at putting together what he'd heard in his head ever since he was a boy.

Toward the end of his life, Muggsy's way of creating music had fallen almost entirely out of favor, and he was in bad health again. But he knew what he had accomplished, especially with the Ragtime Band. I have no way of telling what comfort, if any, these recordings were to him during his retirement in Sausalito, but now that they're available again, the sounds are going to greatly lift other spirits. That is, those sensible enough to get this record before it, too, disappears. □

DANCE

NANCY GOLDNER

About one-third over as I write, the New York City Ballet's spring season has been fitful. Generally, the corps has been less spirited than in recent seasons. The orchestra has been hitting too many wrong notes, often during the most lively passages, and tempi are not as firm as usual. Suzanne Farrell, whom one wishes at the helm of the repertory, continues to be entrenched in specialty numbers. However exquisite her appearances in *Vienna Waltzes*, *Union Jack* or *In G Major*, they cannot compare with the deeper pleasure of seeing a highly inventive artist mesh with the classical anonymity of a *Raymonda Variations* or this season's *Tchaikovsky Piano Concerto No. 2*, which Farrell performed once and canceled twice, or *La Source*, which she apparently rehearsed but did not perform. Baryshnikov's multifaceted introduction to the repertory was temporarily suspended due to injury. The dignified impact of his one new role, Apollo, was superseded by the limp impact of the ballet. The recent revival of the masterpiece Balanchine made in 1928 for Diaghilev's Ballets Russes was without breadth—it was performed without the sacramental prologue, in which Apollo is presented with a lute, and without Apollo's first solo, in which he learns to master the arts of music and dance. In order to explain Balanchine's decapitation of Stravinsky's score and his own work one would have to look hard for rationales. My own is that the current *Apollo* is a protest against those who breathlessly endow any one ballet from Balanchine's enormous *oeuvre* with a halo. I suppose that when the Balanchine era closes, historians will override his veto and place *Apollo* at the top of the "important" list. Rightly so. But as this strange season has proven, interesting ballets are often more important than important ballets.

Without fanfare, *Tchaikovsky Piano Concerto No. 2* and *La Source* have slipped back into repertory. The first is certainly "major"; the second, to a Delibes score, is one of the many middle-sized delights without which the City Ballet could not exist. Performed relatively infrequently, these two represent the still-undigested bulk of Balanchine's work. It never ceases to amaze me that, given the range and length of Balanchine seasons, one can still ponder his standard works as though they were new. Alternating between can-can ensemble numbers and *gemütlich* duets, what ballet is as conventionally genial as *La Source*, yet so fiercely bifocal? *La Source*, one is again reminded, is one of Balanchine's queerest pleasantries.

As powerful as *Tchaikovsky*'s projection of infinite scope are the daring means by which Balanchine achieves that scope. Most classical ballets are built on the soloist/demi-soloist structure. In the first movement of *Tchaikovsky*, the structure is asymmetrically doubled (a leading couple plus a three-quarter lead girl) and then triply elaborated with each helix (with an occasional crossover of dancers). The first movement of the ballet is *the* definitive exploration of hierarchy. Just when you've assumed that the last possible team combination has been demonstrated, another one sweeps onto the horizon and, as is so often the case in Balanchine ballets, manipulations of form become sources of drama. The ballet builds to a pitch as intense as the finale of *The Sleeping Beauty* ought to be. But there are still two movements to go in the piano concerto.

Tchaikovsky's Act II introduces a whole new world of mood and structure: the cavalier, meditating on balle-

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rinahood, is abetted not by a lady herself but by two flanks of girls whose gusts of motion answer the rise and fall of Tchaikovsky's cadences and, possibly, the cavalier's thoughts.

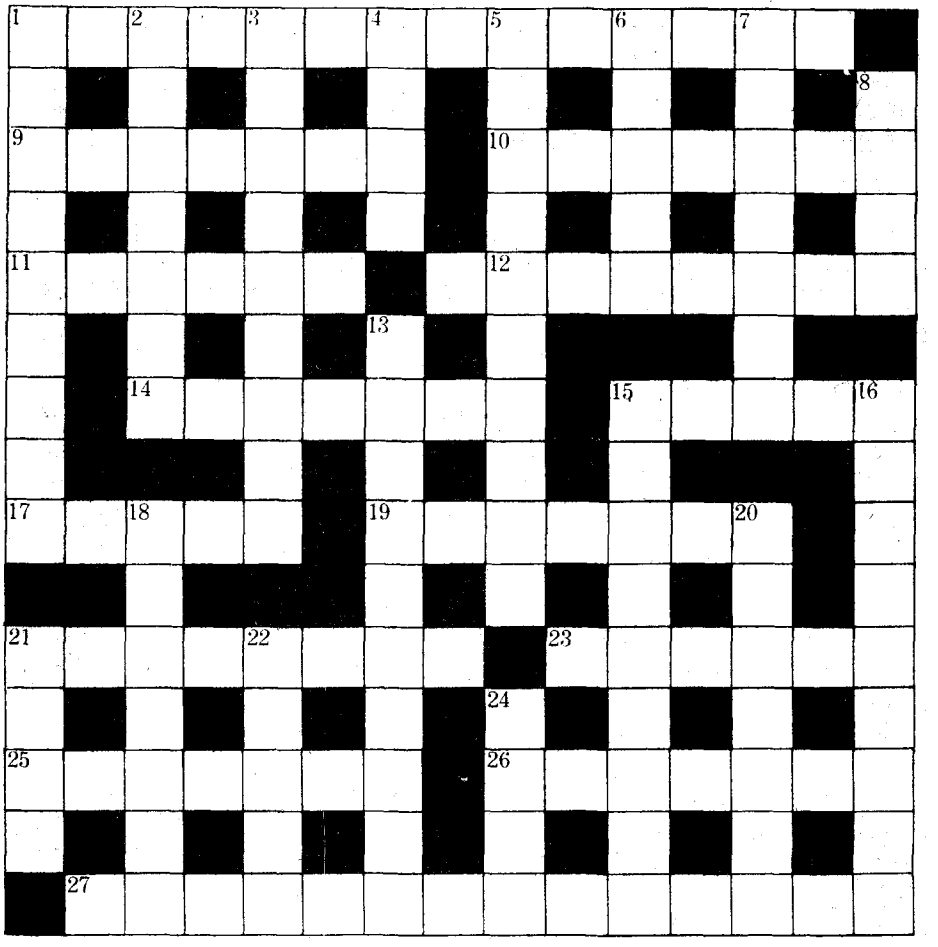
The beginning of this miraculous adagio rests on the assumption, boldly made, that we have never seen a dance of pure pattern; the astonishing beauty of it validates that assumption. Yet that's only half the story. It turns out that the deeply extended pas de deux, for a man and woman, is actually a preamble to the ballerina's entrance, just as the ballet's first moments of bows and curtsies by a small ensemble are retrospectively understood as harbingers of the full court.

Throughout the ballet, Balanchine is pushing formats to their extreme. The third and final movement is relatively short and tidy—mercifully so. For the first leg alone has enough material to sustain the entire career of a choreographer and a ballerina. The ballerina on the two occasions I saw the *Tchaikovsky Piano Concerto* this season was Merrill Ashley. She took the steps not as the ultimate test of strength and stamina but as fodder for them. Ashley is probably the only dancer in the world right now who can persuasively use challenge of this caliber as a trampoline. Not quite the personage for *Ballet Imperial*, the title by which this ballet was once known, she must have been in Balanchine's mind when he unbuttoned Tchaikovsky's czarist cloak.

Most of Balanchine's pas de deux and trois, made in the 1950s when the City Ballet needed outright glamour pieces to attract audiences, have fallen by the wayside. American Ballet Theatre's fund-raising gala at the Met had the distinction of retrieving a couple of these nuggets, thereby reopening another important aspect of Balanchine's work. Both the *Glinka Pas de Trois* and *Sylvia Pas de Deux* are prime examples of sophisticated virtuosity, where star-vehicle characteristics and dance virtues have no trouble coexisting. It was strange to set A.B.T.'s rather tepid performances of them, and the audience's rather tepid reactions to them, against memories of Maria Tallchief, André Eglevsky, Melissa Hayden and Patricia Wilde. It was even stranger to find oneself wondering whether the age of big-name ballet, the phenomenon that allows A.B.T. to sell expensive galas in the first place, has come twenty years too late, and whether the company which most proudly identifies itself with that tradition is the farthest away from it. □

Crossword Puzzle No. 1781

FRANK W. LEWIS



ACROSS

1 6 down's apt to represent poor figures of speech. (5,9)
9 A sizeable drop in agrarian reform, without Russian capital. (7)
10 Still showing no signs of emotion. (7)
11 15 across lives in this kingdom. (6)
12 Using a gun, they might get you off. (8)
14 Is the lawn across the street? (7)
15 See 1 down
17 Having a peduncle opened wide inside? (5)
19 A temporary arrangement in a sort of timer. (7)
21 Perhaps less noticeable than the old school tie clasps with the end turned in. (5,3)
23 and 25 "Thick and thin" sometimes does, as the golfer might work on a good one. (6-7)
26 One might say the sentence is too long. (7)
27 Theirs is not a primary judgement. (They might estimate how long a little movement takes.) (6-8)

DOWN

1 and 15 across You might find one in a Chinese restaurant, but in the main it's not a particularly welcome sight. (3-6,5)
2 It scarcely involves a superficial examination! (1-6)
3 Right in front of you there's a car that's empty around it. (4,5)
4 Made up part of the last course? (4)
5 Grown-up time at half-term—cheapen things if you do! (10)
6 A poet might bring someone else in, as well. (5)
7 A river I found messy as a vacation spot. (7)
8 Works for Pindar, or sort of does! (4)
13 Not having food passed around in his trouble, Schubert's work was rough! (10)
15 So does the cud in 22. (9)
16 Having uncertainty as to its walk, still lots of power implied. (9)
18 Mostly on the level—public relations manifestation of pride, that is! (7)
20 Having a man around is a troublesome condition of weakness. (7)
21 It sounds like a real spectacle—quote! (4)
22 Old Italian coin; if it had an eagle's head on it, it would be Portuguese. (5)
24 The crust has a light color. (4)

SOLUTION TO PUZZLE NO. 1780

ACROSS: 1 Cost accounting; 8 Unconvincing; 10 and 15 down The Wild Man of Borneo; 11 Pogo; 13 Rattan; 14 Spoonful; 16 Identify; 17 Unison; 19 Note; 20 Fox terrier; 22 Countermined; 23 Rhapsody in Blue; DOWN: 1 Countersigning; 2 Secret treaty; 3 Annuitants; 4 Childe; 5 Unclasps; 6 Tone; 7 Brooklyn Bridge; 9 Confessional; 12 Countrymen; 18 Steely; 21 Coop

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